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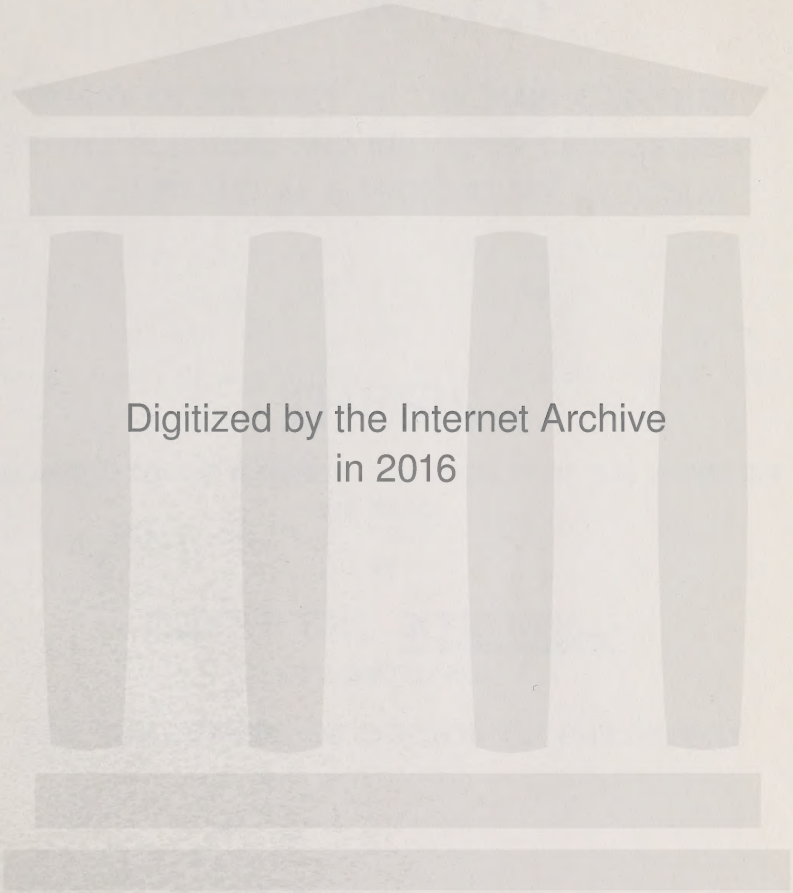

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MARYLAND

1633 to 1776

BEING AN ACCOUNT OF THE MAIN CURRENTS IN THE POLITICAL AND RELIGIOUS DEVELOPMENT OF MARYLAND AS A PROPRIETARY PROVINCE

THESIS

PRESENTED TO THE PHILOSOPHICAL FACULTY OF THE UNIVERSITY OF BERNE

BY

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OF WASHINGTON

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FOREWORD

The following pages, written as part requirement for the degree of Doctor of Philosophy at the University of Berne, are designed to briefly trace the history of Maryland from the date of its foundation to the Revolutionary War. My especial thanks are due my father, Dr. Herman Schœnfeld, at whose suggestion this work was undertaken, and to Prof. P. Woker, under whose guidance it was achieved—to both of whom I make grateful acknowledgement of indebtedness. I also desire to thank John J. Meily, Esquire, American Consul at Berne, and Mr. Jean Allemann for valuable assistance.

R. E. S.

BERNE, Switzerland, March 1921.

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CHAPTER I.

FOUNDING OF MARYLAND AND ITS CHARTER.

In the year 1623, England and Spain, hereditary enemies since the days of the Reformation, were to be brought together through the marriage of Charles I., then Prince of Wales, with a Spanish Infante. Such was the plan of George Calvert, principal Secretary of State at the time and a powerful faction of the English court. However when the plan became known, it was so violently opposed by the people and Commons, that its erstwhile sponsors, with the exception of Calvert, repudiated it.

Calvert believed that the hatred between the two nations should give way to a period of sympathetic understanding and that the alliance would serve this end. In addition, in his own case, there was a strong religious motive. His tendencies were distinctly Roman Catholic. As a member of the English government he was necessarily a member of the Church of England, but at heart he had become a Roman Catholic. Therefore on the collapse of the policy that he had sponsored he announced his conversion to the Church of Rome and retired from political life. In spite of this, his personal influence with James 1. remained unaffected and he was even raised to the Irish peerage as Baron Baltimore of Longford County, Ireland.

As a result of this relinquishment of power Baltimore was free to turn his full attention to colonization enterprise in North America. He had been a pioneer in colonization there. As councillor of the New England Company and a member of the Virginia Company during the precarious years of its early existence, he had been identified with British colonial enterprise in America practically at its inception. In 1624 when the Virginia charter

was revoked and it became a crown colony, he was appointed one of the provisional council for its government. In 1620 he purchased the rights over the southeastern peninsula of Newfoundland, called Avalon, from Sir William Vaughan and the following year sent over a body of colonists.

In 1625 James I. of England died and was succeeded by his son, Charles, who sought to retain Baltimore's services by offering to dispense with the oath of supremacy in his particular case. But the latter pleaded the necessity of visiting his colony, Avalon. In this connection Baltimore wrote Sir Thomas Wentworth in 1627:

"I must either go and settle it in better order, or else give it over, and lose all the charges I have been at hitherto, for other men to build their fortunes upon. And I had rather be esteemed a tool by some, for the hasard of one month's journey, than to prove myself one certainly for six years by-past, if the business be now lost for the want of a little pains and care."[1]

In 1628 Baltimore moved to Avalon with forty colonists and his family, with the exception of his eldest son Cecilius, who remained in England. But in a few months he decided to discontinue his efforts to develop this colony. In a letter to the king he explained that he had been deceived, that everything was completely frozen from October till May and that the climate was so rigorous as to render the colony valueless except as a fishing station. He closed with a petition for a grant of land more to the south.

Leaving Avalon with his family, Baltimore made his way down the coast to Virginia. His reception there was anything but cordial. He was first of all, a Roman Catholic, a fact particularly distasteful to the Virginians. In addition, he had been one of the commissioners appointed by James I. for the control of Virginia, and it was feared that part or perhaps the whole of the colony might be granted him. To deter him from remaining he was tendered the oath of allegiance which required him to swear that he believed the king to be "the only supreme governor in his realm and dominions in all spiritual or ecclesiastical things

[1] W. H. Brown, Maryland, The History of a Palatinate, page 9.

or causes."[1] As a Roman Catholic he naturally declined, soon after left the colony, and after examining the coast, returned to England.

On his arrival he petitioned the King for a grant of land south of the James River. But upon the counter petition of William Claiborne, a member of the Virginia government, who had been sent to England by the Virginia Assembly for the express purpose of preventing any encroachment on Virginia's territory, and who urged that Virginia desired to establish sugar plantations on these lands, Baltimore agreed to renounce this patent and requested that the unsettled territory north of the Potomac River be granted him.

On April 15, 1632 before this grant had received the imprint of the great seal, George Calvert, 1st Lord Baltimore died and the charter was granted to his son Cecilius, 2nd Lord Baltimore. George Calvert, though of a religious faith that involved political disfranchisement in England, had won and retained the friendship of two wayward and changeful British monarchs and by the force of his personal influence, had assured a charter to his son, upon which was to be built the State of Maryland, a permanent monument to the House of Baltimore.

The charter of the new State, issued in June 1632, modeled upon the palatinate form of government of the Bishopric of Durham, provided for the erection of a similar form of government in the new world with the Barons of Baltimore as Lords Palatine. The boundaries of the province were to be: the fortieth parallel on the north; on the west a line drawn due south from the fortieth parallel to the farthest source of the Potomac River; on the south, the lower bank of the Potomac River to the Chesapeake Bay, across the Bay to Watkins Point, thence due east to the Atlantic Ocean. This territory included not only the present state of Maryland but also territory which forms the present state of Delaware, a large part of Pennsylvania, and a part of Virginia.

Cecilius immediately undertook to plant a colony. The Ark and Dove, ships of three hundred and fifty and fifty tons respec-

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[1] Maryland Archives, Proceedings of the Council, 1636–1667, pages 16, 17.

tively, were to carry the prospective settlers to the New World. Of the company, about twenty were of gentle blood and chiefly Roman Catholics, whereas the great bulk of the remaining two hundred and more were artisans and craftsmen, chiefly Protestants. Cecilius had planned to accompany his colonists but was prevented by the necessity of protecting his charter against powerful interests which had unsuccessfully opposed its passing and were now intent upon securing its revocation.

The Ark and Dove had left Gravesend, when the Star Chamber received a report that the crew had failed to take the oath of allegiance. Cecilius' Roman Catholic faith had given rise to numerous rumors as to the purpose of the expedition, some as extreme as that the ships were to carry nuns and soldiers to Spain. An order to Admiral Pennington guarding the straits arrived in time to enable him to intercept the ships and administer the necessary oath. That complete, they were allowed to proceed. At the Isle of Wight two Jesuit priests were taken aboard, Andrew White and John Altham. After a three month's trip the ships arrived at Old Point Comfort, rested a week, then sailed up the Potomac River and landed at St. Clements' Island.

The expedition was in charge of the brother of the Lord Proprietor, Leonard Calvert. The latter arranged through Henry Fleet, a Virginian, who knew the Indian languages, to purchase land already cleared and cultivated, from the Yaocomic Indians. The latter harassed by the neighboring Susquehannoughs, were preparing to leave and gladly gave title to their land to the English settlers in exchange for a few axes, hoes and cloth. Upon this land was founded the town of St. Mary's, the first town in the province of Maryland.

The land was rich and possessed many natural advantages, the many rivers and the Bay made communication easy, the climate though cold in winter was not rigorous,—and of vital importance, food existed in abundance. The Yaocomic Indians assisted the settlers in learning to cultivate the native corps of corn and tobacco, the latter soon becoming the staple product for export from the province and even its currency. Under such favorable circumstances the colonists began an existence which can be characterized as successful from the beginning.

The system of government, though modeled on that of Durham, was nevertheless unique. It has been correctly said that it was "more ample in terms than any similar charter ever granted by an English king." [1]

The new province, which the charter provided should be called Maryland, in honor of Charles' Catholic queen, Henriette Maria, was to be held in free and common socage by Lord Baltimore, his heirs or assigns, for all time, in return for the annual payment of two Indian arrows at Windsor and one fifth of all gold and silver mined. It was expressly provided that it was not to be held "in capite, nor by Knight's service" [2] thus specifically exempting him from all services, military and otherwise, except those specifically mentioned.

Lord Baltimore, and his heirs were to be "the true and absolute lords and proprietors of the region aforesaid saving always the faith and allegiance and sovereign dominion" due the crown of England. He was empowered to "to ordain, make and enact laws, of what kind soever... whether relating to the public state of the said province, or the private utility of individuals, of and with the advice, assent, and approbation of the freemen of the said province." He was further empowered "to make and constitute fit and wholesome ordinances from time to time, to be kept and observed within the province aforesaid, as well for the conservation of the peace, as for the better government of the people inhabiting therein." These ordinances were to be "inviolably observed" as long as they were "consonant to reason" and not repugnant or contrary to the laws, statutes, or rights of England. He and his heirs were further to have the right of making war and peace; even as "full and unrestrained power, as any captain-general of an army ever hath had" and to be able "to summon to their standards, and to array all men, of whatsoever condition, or wheresoever born, for the time being, in the said province of Maryland, to wage war and to pursue even

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[1] MacMahon, J. V. L. An Historical View of the Government of Maryland.—Vol. 1, page 155.

[2] Bacon, T., Laws of Maryland at Large (Translation from the Latin). Likewise quotations which follow.

beyond the limits of their province, the enemies and ravagers aforesaid, infesting those parts by land and by sea."

They were given the right to establish courts of justice, appoint judges and magistrates and other civil officers, execute laws, pardon offenders; "and do all and singular other things belonging to the completion of justice, and to courts, pretorian judicatories, and tribunals, judicial forms and modes of proceeding, although express mention thereof in these presents be not made."

It was further provided that in view of the remoteness of the region, and as "every access to honors and dignities may seem to be precluded, and utterly barred, to men well born, who are preparing to engage in the present expedition, and desirous of deserving well, both in peace and war, of us and our kingdoms"... plenary power was granted to the Baron of Baltimore then holding the title as well as his heirs or assigns "to confer favors, rewards and honors, upon such subjects, inhabiting within the province aforesaid, as shall be well deserving, and to adorn them with whatsoever titles and dignities they shall appoint (so that they be not such as are now used in England)".

The Lord Proprietor was further to have the patronage and distribution of benefices of churches and the privilege to found, erect, dedicate and consecrate churches and chapels.

The King bound himself and his successors to lay no taxes, customs, subsidies or other contributions whatever upon the people of the province, and in case of such a demand being made the charter expressly declared that this clause should be pleaded as a discharge in full. The freemen could be called to assembly at such time and in such manner as the Lord Proprietor saw fit but they were to have no representation in the English Parliament and the latter was to have no right to make laws for them.

Such were the primary provisions of the charter. They provided for rights that were nothing short of royal and the province was indeed "a kingdom within a kingdom".

The rights of the people were safeguarded more by implication than express provision. They and their descendants were to remain English subjects; all laws were to be made with their advice and assent; no ordinance should be made depriving them

of life, freehold, goods or chattels; all laws should be reasonable and agreeable to the laws of England so far as they conveniently might be; and the people of Maryland should be entitled to "all the privileges, franchises and liberties" which other English subjects enjoyed.

The Proprietor was the source of all power, — civil, military and religious. But the granting of privilege did not necessarily imply the means to enforce it, and opposition to royal prerogative witnessed in many controversies in the province of Maryland ended in less than a century and a half in complete triumph of popular liberty and overthrow of autocratic control.

The principal inducements held out to prospective colonists were two: the possiblity of becoming land owners and the assurance of freedom from religious pressure and persecution in the event of their being of a faith other than that of the Church of England.

In a letter of instructions written by Cecilius to his brother Leonard the latter was directed to give colonists of the first immigration who had brought five men to the colony two thousand acres of land subject to an annual quitrent of four hundred pounds of wheat. Colonists who emigrated to Maryland in 1634—1635 bringing over ten men were to receive the same allotment of land at a rental of six hundred pounds of wheat annually. This proportion was to be continued for immigrants arriving in succeeding years.

These instructions further dealt with the question of the relationship of colonists of different religious faiths. There was to be absolute impartiality of treatment of Protestants and Catholics. The latter were to perform their religious ceremonies as privately as possible and refrain from becoming involved in religious discussions. In the light of succeeding events, it may be confidently stated that Cecilius Calvert, possessed a liberality of mind as regarded religious freedom rare at that time, and that it was this liberality as much as the recognition of the advisability of such a policy which caused Maryland to become the refuge of persecuted protestants and catholics alike.

CHAPTER II.

ATTACKS UPON THE MARYLAND CHARTER.

Close upon the granting of the Maryland charter, the crown was presented with a petition from the governor, council and planters of Virginia, which maintained that the newly granted charter of Lord Baltimore included territory previously granted to Virginia, that part of this territory was inhabited by Virginians and that colony was now cut off from certain of its places of trade.[1] As the rights granted by the original Virginia charter of 1609 had reverted to the crown in 1624 when Virginia became a crown colony, the basis of the Virginia claim could scarcely be considered valid. In a hearing of the case before the Privy Council, Baltimore's grant was upheld and a royal order was sent to the Virginia government commanding that Maryland be afforded all lawful assistance.

However these orders were not to be complied with without friction. William Claiborne, a member of the Virginia council and secretary of state of that colony, had established a trading post on Kent Island, in the Chesapeake Bay, within the Maryland grant, under authority granted him by a patent issued in 1631 under the Scotch signet. Cloberry and Company of London were interested in the post and furnished the capital for the enterprise. They were to send out men, indented servants and freemen as well as suitable wares for trading with the Indians and to receive in return beaver skins and corn for sale in England.

Shortly before the settling of St. Mary's Claiborne was told that Kent Island was situated within the Maryland grant and that he would have to surrender it. But the Island had sent a

[1] Proceedings of the Council, 1636—1667, pages 18 to 22.

member to the Virginia House of Burgesses and was considered a part of that colony. Therefore Claiborne requested instructions from the Virginia government as to the propriety of complying. The latter replied March 14, 1633—1634 that it failed to see any more reason for giving up Kent Island than for giving up any other part of the colony. [1]

In his original instructions dated November 13, 1633 to his brother, Cecilius directed that friendly relations with Claiborne be established, that a curteous letter be written him assuring him of all encouragement in his enterprise consistent with the Maryland charter. He was then to be invited to a conference. If he refused to come, he was to be left alone for a year, and the Lord Proprietor informed.

Soon after the arrival of the colonists, the attitude of the Indians, hitherto friendly, suddenly changed. It was rumored that Claiborne had caused this change by telling the natives that the new colonists were Spaniards. This seems to have been false, but the Lord Proprietor was meanwhile informed and immediately sent instructions that Claiborne's settlement be seized and he himself held prisoner pending further instructions. [2]

The capture of a pinnace belonging to Claiborne by the Maryland government for trading in Maryland waters without a license brought about hostilities. Claiborne in retaliation armed the shallop "Cockatrice" and manned her with thirty men under Ratcliffe Warren and empowered him to seize any vessel belonging to the St. Mary's government. On hearing of this, Gov. Calvert, sent out two pinnaces, the Sts. Helen and Margaret, under command of Thomas Cornwalleys. The opposing boats met April 23, 1635 in the Pocomoke River and the "Cockatrice" was taken. [3] May 10th another encounter occured. Claiborne favored further hostilities but the Virginia government feared the consequences of continuing to run counter to express royal instructions and therefore sent commissioners to Maryland who made arrangements whereby Baltimore's authority was acquiesced in, if not formally acknowledged.

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[1] Proceedings of the Council 1667 to 1687—1688, page 164.
[2] Proceedings of the Council 1667 to 1687—1688, pages 165—168.
[3] Proceedings of the Council 1667 to 1687—1688, page 169.

Toward the end of 1636 Cloberry and Co., dissatisfied with profits, sent George Evelin as their representative to Kent Island with full power to take over the post from Claiborne. The latter was to return to England to settle his accounts. Evelin was inclined to dispute Baltimore's title to Kent Island until a visit to St. Mary's where he was shown a copy of the Maryland charter and a copy of Claiborne's license convinced him that his claim could not hold. He therefore decided to recognize Maryland's jurisdiction and obtained a commission from Calvert as "Commander" of the Island. An effort to induce the inhabitants to submit to Maryland authority failed. Evelin then proposed that Gov. Calvert reduce the Island by force. In December 1637 a Maryland force of forty men made a surprise landing on Kent Island and captured the Island without bloodshed.

Evelin made no effort to safeguard the interests of the inhabitants, but on the contrary appropriated to his own use equipment belonging to the settlement valued at from £8,000 to £10,000.[1] His mal-administration caused a revolt which necessitated a second reduction of the Island. However by 1640 the Kent Islanders had taken oath of fidelity to the Maryland government and had had their property grants confirmed to them. Meanwhile Evelin had become the owner of a manor in Maryland and Claiborne absent in England had been deprived of all his possessions in the province by a bill of attainder passed by the Maryland Assembly.[2] Opposition from that quarter thus seemed to have been effectively crushed, but this reverse merely marked the beginning of a long period of persistent opposition on the part of Claiborne.

The charter continued to be the object of open and covert attack. In order to quiet opposition for all time King Charles I. in 1637 confirmed his grant and ordered the Commissioners of Plantations to countenance no commission which unfavorably affected the rights of Baltimore. He himself would prevent the passage of any "quo warranto" proceedings designed to overthrow or nullify any clause of the Maryland charter. But de-

[1] Beginnings of Maryland 1631—1639. Bernhard C. Steiner.

[2] Proceedings and Acts of the General Assembly, 1637—1639 to 1664, pages 23—24.

spite this confirmation, the charter was to experience three quarters of a century of persistent and often successful attack.

Toward the close of 1643 Richard Ingle, commander of the merchant ship "Reformation" appeared in St. Mary's harbor. He was arrested while in port for violent and treasonable speeches against the king. Arrested by the Maryland authorities, he was released by Capt. Thomas Cornwalleys. The latter, appointed Captain-general of the province on Gov. Calvert's departure for England in April 1643, was the chief military figure in the colony. He had commanded the forces against Claiborne, concluded peace with the Naticoke Indians and led an expedition against the Susquehannoughs. But he had become disaffected through the Lord Proprietor's failure to grant certain concessions to the Assembly and his policy of restricting the rights of the Roman Church. His action with regard to Ingle caused considerable resentment in the colony. When brought to trial he was fined 1000 pounds of tobacco.[1]

Ingle returned the following year and was immediately detained by the authorities, but released on his promise to deposit a barrel of powder and four hundred pounds of shot as security for appearing in February to answer charges but he left the colony, without keeping his promise, taking Cornwalleys with him.

At this time Claiborne was secretly visiting Kent Island and seeking to incite a rebellion, assuring the inhabitants that he held a commission from the King. Soon after, Ingle returned from England in command of an armed ship and with letters of marque and reprisal from Parliament. Claiborne and Ingle, drawn together by the common desire to avenge themselves upon the Maryland government, joined forces, enlisted such elements of disaffection and credulity as they could prevail upon to recognize their authority, seized St. Mary's and dispossessed the proprietary government. Governor Calvert and the members of his government were compelled to flee to Virginia, where they remained for two years, Claiborne and Ingle meanwhile holding full sway in Maryland. Their rule was a succession of imprisonment, plunder and violence. They seized tobacco, corn and cattle, dis-

[1] Proceedings of the Council, 1636 to 1667, page 167.

mounted and disposed of machinery, and broke up the Roman Catholic missions. Even the house and plantations of Ingle's benefactor and friend, Thomas Cornwalleys, were pillaged. But reaction soon set in and at the end of two years Gov. Calvert organized a force of Maryland and Virginia soldiers, marched on St. Mary's and drove out the Claiborne and Ingle government, but both the insurgent leaders escaped. Ingle was later prosecuted in England and answered with an address to Parliament that he had plundered only "malignants and papists" in order to relieve the oppressed Protestants, a flimsy excuse as the Protestants in the province were in great majority.

The trend of events in England at this time convinced the Lord Proprietor of the advisability of avoiding all possibility of giving offence to the Puritan Parliament of England. He therefore removed Gov. Greene, a Roman Catholic, whom Gov. Calvert had appointed shortly before his death in 1647, and replaced him by William Stone, a Protestant and friend of Parliament. Thus attacks on the government on the pretext of religious hostility could no longer be urged. But in November 1650, Gov. Stone went to Virginia for a few days and during his absence, Greene, his substitute, proclaimed Charles II. heir to the English throne.[1]

The Virginia Assembly went further, denouncing the execution of Charles I. and proclaiming his son heir to the throne. In addition it was made treason to utter anything against the house of Stuart or in favor of a Puritan Parliament. Virginia's unyielding attitude, when brought to the attention of the home government, led to the issuance of a parliamentary commission designed to coerce her into acceptance of the turn of events. Maryland was likewise included, but the Lord Proprietor showed that there was no opposition to the Puritan government in Maryland, that the proclamation of Charles II. as king was the unwarranted act of the substitute governor during the absence of the regular governor. Maryland was therefore omitted from the commission. Yet a single passage referred to "all the plantations within the Bay of Chesapeake", thus including Maryland. It seems likely that Claiborne was responsible for this, especially as he was appointed one of

[1] Proceedings of the Council 1636 to 1667, pages 243, 244.

the four commissioners for the reduction of the two provinces. Virginia was immediately reduced and brought under the control of the commissioners and in 1652 Maryland suffered the same fate.

Gov. Stone was removed and then reappointed, after the representatives of the Lord Proprietor in the Council had been removed and arrangements made for legal processes to run in the name of the "Keepers of the Liberties of England".[1]

Upon Cromwell's dissolution of Parliament in 1653 and his assumption of the role of protector, he was proclaimed in Maryland. Cromwell and the Puritan army now composed the government of England. Parliament and with it, the Keepers, were no more. Therefore authority delegated by the Keepers in the parliamentary commission to Claiborne and the remaining three commissioners was no longer valid. Baltimore acted on this theory and undertook to regain control of his province. He instructed Stone to exact the customary oath of fidelity to him of all taking up lands and to see that legal processes ran in his name as was the case up to the time of the parliamentary commissioners.[2]

Stone succeeded in resuming his duties as governor, but a military force under Commissioners Claiborne and Bennett marched upon Maryland, compelled his resignation, and placed Capt. William Fuller, a Puritan of the settlement of Providence, with nine other commissioners in charge of the government. When the Lord Proprietor was informed, he rebuked Stone for surrendering with so little resistance and directed him to resume office. Stone thereupon collected a military force of a hundred and thirty men and set out for Providence, Puritan headquarters. But a land attack under Fuller at the head of one hundred and seventy five men combined with the fire of two merchant vessels lying in the Severn river resulted in the complete defeat of the Lord Proprietor's forces.

In 1656 Baltimore succeeded in securing an order for the restitution of his property from the Protector and the following year an agreement between Commissioner Bennett and Baltimore provided for the complete restoration of the Maryland government.[3]

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[1] Proceedings of the Council 1636 to 1667, page 271.
[2] Proceedings of the Council 1636 to 1667, page 300.
[3] Proceedings of the Council 1636 to 1667, page 332 on.

This marked the end of Claiborne's active opposition to the Maryland government. He had however been the chief obstacle to the peaceful development of the colony during the first twenty years of its existence.

In July 1656 Josias Fendall was appointed governor of the province to succeed William Stone. A short period of quiet then set in. But during the session of the Assembly of 1659—1660 an internal conspiracy was aimed at the Lord Proprietor's authority. Acting on the theory that the provincial Assembly was a miniature parliament, the Lower House notified the governor and Council that it was the opinion of that body that it held power independently of any power outside of the province. The members of the Council were then informed that they might take seats in the Lower House but that the delegates of the latter could not recognize them as having any power as the Upper House or Council. Gov. Fendall and several members of the Council acquiesced in this point of view, the former surrendering his commission as governor and receiving a new one from the Assembly. An act was then passed making it criminal for any one to disturb the existing government. In addition Fendall issued a proclamation providing for recognition of no authority except that of the King and the Assembly. Baltimore was thus entirely unrepresented. What led the conspirators to this action is not apparent. It seems to have been a mere intrigue for power. Soon after, Charles II. became king and the Lord Proprietor obtained letters from him confirming his authority. He thereupon sent his brother, Philip Calvert, to the province as governor and on his arrival the Fendall government collapsed of itself and the legally constituted government of the Proprietor was restored without resistance.[1] The succeeding twenty years held no menace to the charter.

In 1675 Cecilius, Second Lord Baltimore died and was succeeded by his son Charles. The former had successfully led the colony through the dangers and attacks of more than forty years and by his judgment and talent for government had firmly established the colony.

Charles, third Lord Baltimore, though determined and experienced in government, lacked the insight and tact of his father.

[1] Proceedings of the Council, 1636—1667, pages 392—399.

He was constantly at the head of a minority and though generally successful in attaining his ends it was often at the cost of his popularity. His private purse and his personal interests were paramount; the future of the colony and his people's welfare were secondary.

The grant of Pennsylvania in 1681 to William Penn brought with it fresh complications for Maryland. Pennsylvania's southern frontier was to be measured "by a circle drawn at twelve miles distance from New Castle, northward and westward to the beginning of the fortieth degree of north latitude, and thence by a straight line westward".

Before the charter had been granted it was agreed that the 40th parallel, Maryland's northern boundary, should be respected. It was later found that Newcastle was twenty miles south of the fortieth degree. But Penn then refused to accept the 40th parallel as the boundary. When he proposed that Baltimore move his southern and northern boundaries thirty miles south in order that Pennsylvania might have access to Chesapeake Bay[1] it became evident that a water outlet was the reason for his unwillingness to respect Baltimore's prior claim. Two conferences between the two proprietors resulted in no agreement.

Penn had likewise received a deed of enfeoffment from the Duke of York, for the territory from the west bank of the Connecticut River to the eastern shore of the Delaware granted him by his brother Charles II., on his restoration. Prior to granting this land to Penn, the Duke of York had reduced the Swedish and Dutch settlements on both sides of the Delaware and thereafter claimed the land on both banks, although the west bank was within the Maryland grant.

After the unsuccessful efforts to settle this question Baltimore left for England in 1684 to plead his case before the king. Soon after his arrival the duke of York whose friendship Penn enjoyed became King James II. The latter referred the case to the commissioner of plantations and trade with appropriate instructions. A judgment was returned adjudging the land lying between Delaware Bay and extending from the latitude of Cape Henlopen north to

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[1] Proceedings of the Council, 1667 to 1787—1788, pages 374—394.

the 40th degree, to the crown. The king then confirmed Penn in his possessions. But the northern boundary was not settled and as long as Baltimore's charter held there could be no doubt of his prior jurisdiction. Penn therefore decided to use his influence with the king to find a means of insuring his claim to the disputed territory. The result was the issuance of a writ of "quo warranto" in April 1687 to nullify the Maryland charter, but before it had been executed the revolution of 1688 which saw the flight of James II. and the advent of William and Mary took place and the charter remained unimpaired. The controversy thereafter declined into a private dispute.

A messenger despatched to Maryland by Baltimore with instructions to have William and Mary proclaimed died en route.[1] Meanwhile they had been proclaimed in Virginia and New England; Maryland alone seemed to be unwilling to accept the change. This fact lent color to a rumor in March 1689 that the Maryland Catholics had entered into a conspiracy with the Indians to murder all Protestants in the province. Enemies of the Proprietors had on former occasions tried to stir up the people by similar rumors, but without success. But with the failure of the Maryland government to proclaim the Protestant monarchs, William and Mary, after a revolution which put to flight the Roman Catholic King James II., there was no difficulty in securing the ear of many of the Protestants. There were no untoward events at the moment, but a Protestant Association was formed with John Coode at its head. The latter had been a minister who had foresworn his calling, later openly attacking Christianity and the church.

Soon after the March rumor, a report was spread that the government buildings were being fortified. Coode and some of the Associators went to investigate. On arriving they seized the records and took prisoner the deputy governor and a force of eighty men that he had been able to collect. The association then took over the goverment. William and Mary were proclaimed and addresses were sent to the King explaining that the Associators had felt obliged to do this in the interests of the crown.

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[1] Proceedings of the Council, 1687—1688 to 1693, pages 113, 114,

In addition a list of grievances were sent to the crown. It was maintained that under the Proprietor none but Roman Catholics held office, that the Roman Church was encouraged whereas the Church of England was utterly neglected; that freedom of elections was violated; that the proprietor used his power of veto to an unjustifiable extent and that excessive fees were charged by government officers.[1] It was true that Charles, third Lord Baltimore had effectively alienated all sympathy by his selfish regime. The chief offices were filled by members of his family, who were Roman Catholic, although the majority of the people were Protestant; he had been guilty of summoning only onehalf of the delegates elected to the Lower House on the plea of economy but in reality to exclude those who opposed him; and he had vetoed bills several years after they had been passed. But these were mistakes of policy rather than violations of his charter.

But William was eager to bring the colonists under the crown and augment the royal revenues so that he might have greater freedom of action for his European policies. The murder of John Payne, a collector of customs in Maryland, the second incident of the kind, the state of affairs with the Protestant associators, and Baltimore's Roman Catholic faith, made him feel that this was a favorable opportunity for bringing Maryland under the crown.

On August 21st, 1690 an order in council instructed the Attorney General to proceed against Lord Baltimore's charter with the object of canceling it. The opinion of Lord Chief Justice Holt given in June 1690 gives the status of the case perfectly. "I think it had been better if an inquisition had been taken, and the forfeitures committed by the Lord Baltimore had been therein found before any grant be made to a new governor. Yet since there is none, and it being in a case of necessity, I think the King may by his commission constitute a governor whose authority will be legal, though he must be responsible to the Lord Baltimore for the profits. If an agreement can be made with the Lord Baltimore, it will be convenient and easy for the governor that the King shall appoint. An inquisition may at any time be taken if the forfeiture be not pardoned, of which there

[1] Proceedings of the Council, 1687—1688 to 1693, pages 128—147.

is some doubt."[1] It was thus evident that the legal basis for the forfeiture of the charter was unjustified and that the procedure was purely a matter of policy.

Thus in 1691 Maryland became a Royal Province. In 1693 the capital was transferred from St. Mary's to Annapolis. This system continued until 1715. The Lord Proprietor continued to enjoy his territorial rights, but all officers were appointed by the crown. It exercised veto power, and all writs and legal processes ran in its name. In brief, the Lord Proprietor's sovereign rights were no more. His position was simply that of owner of the land.

On February 20, 1715, Charles, third Lord Baltimore died and was succeeded by his son, Benedick Leonard. But the latter was to bear the title only a few months, as he died soon after, whereupon his son Charles, a minor, succeeded to the title and estates.

Benedick Leonard had publicly renounced the Roman faith and become a member of the Church of England a few years before and his children were then educated as members of the English Church. As the province had been taken from Charles, third Lord Baltimore, on account of his Roman faith, Lord Guilford, guardian of the 5th Lord Baltimore, petitioned that as this reason no longer held good, the province be restored to the present holder of the title, — a petition which was granted. But the period of royal government had witnessed political practises and developments which were to prove that the early proprietary rights had been considerably curtailed.

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[1] Proceedings of the Council, 1687—1688 to 1693, page 185.

CHAPTER III.

THE CHURCH AND TOLERATION IN MARYLAND.

One of the motives impelling George Calvert, 1st Lord Baltimore, to establish a colony in America was to provide a refuge for those persons who belonged to a religious communion other than that of the Established Church in England and were therefore persecuted in England. Cecilius doubtlessly shared in large measure his father's liberality of mind. But the liberality which inspired this project would have been insufficient in itself to insure success without the skillful leadership and extraordinary tact of Cecilius, second Lord Baltimore. It has been urged that the latter's course of action was largely determined by practical considerations yet his sincerety is clearly demonstrated by his refusal to renounce his Roman faith, although such action would have instantly silenced his enemies and removed most of his difficulties.

In his original instructions to his brother, Cecilius outlined the religious policy to be followed in the province. Roman Catholics were to perform their religious duties quietly and to refrain from all religious discussions. What was of more direct moment, the individuals charged with governing the colony, who were exclusively Roman Catholics, were to administer the province with absolute impartiality in the case of Protestants as well Roman Catholics. This was a policy unique at the time.

Of the practical reasons leading to toleration Charles, third Lord Baltimore gave the following account in 1678:

"At the first planting of this Provynce by my ffather Albeit he had an Absolute Liberty given to him and his heires to carry

thither any Persons out of the Dominions that belonged to the Crowne of England who should be found Wylling to goe thither yett when he came to make use of this Liberty He found very few who were inclyned to goe and seat themselves in those parts But such as for some Reason or other could not lyve with ease in other places And of these a great part were such as could not conforme in all particulars to the several Lawes of England relating to Religion Many there were of this sort of People who declared their Wyllingness to goe and Plant themselves in this Provynce so as they might have a General Toleration settled there by a Lawe by which all of all sorts who professed Christianity in General might be at Liberty to Worship God in such Manner as was most agreeable with their respective Judgments and Consciences without being subject to any penaltyes whatsoever for their so doeing Provyded the Civill peace were preserved And that for the secureing the civill peace and preventing all heats Feuds which were generally observed to happen amongst such as differ in oppynions upon Occasion of Reproachful Nicknames and Reflecting upon each Other Oppynions It might by the same Lawe be made Penall to give any Offence in that kynde these were the conditions proposed by such as were willing to goe and be the first planters of this Provynce and without the complying with these conditions in all probability This provynce had never beene planted."[1]

Reference to and quotations from a proclamation prohibiting disputes and controversies regarding religion, supposedly issued after the founding of Maryland, are found in the record of a case arising in 1638. The proclamation itself has never been found, but it seems to have been the established custom of the province to follow ont the spirit of Cecilius' instructions of April 1633, from the beginning.

But two violations are recorded in the first fifteen years of the Province's existence. In 1638 William Lewis a Roman Catholic, employed by Thomas Cornwalleys, found two of his fellow servants reading aloud from a book of sermons written by a Protestant minister. After railing against the author and Prot-

[1] Proceedings of the Council, 1667 to 1687—1688, page 267.

estant ministers in general, he insisted that they cease reading the book in question. Brought to trial before Gov. Calvert, Secretary Lewger and Thomas Cornwalleys, all three Roman Catholics, Lewis was fined five hundred pounds of tobacco for this offence and required to give security for future good behavior.

The second case occured in 1642. Thomas Gerrard, a Roman Catholic, removed certain books and the key from a chapel at St. Mary's. The Protestants who worshipped there were thereby deprived of the use of the chapel. They appealed to the Assembly for the restitution of the articles removed, whereupon the Assembly issued an order that they be returned and imposed a fine of five hundred pounds of tobacco to be applied to the maintenance of the first minister who should arrive.[1] It thus appears that no Protestant minister had up to that time arrived in the province.

The charter reserved to the Lord Proprietor the patronage and advowson of churches and authorized him to build and consecrate chapels of the English communion. No mention was made of establishing others, but on the other hand their founding was not specifically prohibited, and soon after the arrival of the first colonists a Roman Cathotic chapel was erected and consecrated.

The Jesuit priests in the province were active and successful in their labors. They ministered to the religious needs of the colony and penetrated the wilderness, learned the Indian languages and converted many of the Indians. In 1640 the Chief of Pascataway, the sovereign of the neighboring tribes, was baptized and married according to the Christian rite and his seven year old daughter was brought to St. Mary's to be educated. These were events of importance. The friendship of the neighboring Indians was thereby assured and Maryland was spared the Indian wars and massacres that constantly threatened the existence of other colonies. Yet these successes brought with them a certain danger.

The Indians eager to express their appreciation of the Jesuits' labors offered them large tracts of land as gifts, which

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[1] Proceedings and Acts of General Assembly, 1637—38 to 1664, page 119.

were accepted on behalf of the Jesuit Order. The question then arose as to whether these lands were to be considered as coming under ecclesiastical jurisdiction or under that of the proprietary government. The Jesuits claimed that all the rights that the church had at any time enjoyed under the canon law extended to these grants. As a part of this law, the Papal Bull "In Coena Domini", ecclesiastics and ecclesiastical property enjoyed complete exemption from secular jurisdiction.[1] Further, control of marriage and testamentary cases were to be administered by the church. This would have meant the surrender of important rights by the Lord Proprietor in large sections of the province. Cecilius on learning of this immediately sent out John Lewger as Secretary of the Province with instruction as to the protection of his rights. Lewger, though a Roman Catholic, agreed with the Lord Proprietor that the recognition of the Church's claims could not fail to prejudice the authority of the State, and consequently opposed the designs of the priests.

Father Copley in a letter written to the Lord Proprietor in April 1638 complained of the Secretary's attitude and then outlined the claims of the church. These included the right to accept gifts from converted Indian chiefs given in gratitude for the salvation of their souls; the right of sanctuary for churches and priests' dwellings; the right of priests, their domestic servants and half their planting servants to exemption from public taxes, the rest of their servants and their tenants to be exempted by private agreement. It was also desired that the priests and their servants be allowed to go freely among the Indians and trade with them without license from the government, and that the surrender of any rights should be voluntary, on the part of the Church. Father Copley further added that the restriction of ecclesiastical liberty might be construed to constitute an offence sufficiently grave to endanger the standing in the church of any one who should be responsible for it.

The claims were supported not alone by the priests but by a powerful minority in the province, chief of which was Thomas Cornwalleys, the military leader of the colony. He wrote Baltimore

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[1] C. C. Hall, The Lord Baltimore and the Maryland Palatinate.

that an unstained conscience was his first consideration and that he preferred to sacrifice everything he had rather than to prejudice in any way the honor of God and the Church.

When this intelligence reached Baltimore he immediately had an interview with Father White who had recently arrived in England from the colony, and confirmed his impression of the seriousness of the state of affairs. Though a devout member of the Roman Church, the Lord Proprietor felt that successful government precluded divided sovereignty between church and state. It was necessary that all the Maryland colonists, cleric and lay, should alike be amenable to the civil law. He therefore requested the Pope to remove the Jesuit missions from Maryland, a request which was granted, and later arranged with Father More, the Jesuit provincial in England for the surrender by the church of all claims to exemption from the Maryland law, the release of all lands acquired from the Indians, and the recognition that no land grants were to be valid without proprietary sanction. Moreover, no priests were to be sent to the province without the Lord Proprietor's approval.

The news came upon the priests like a thunder bolt out of a clear sky. Having assured his authority, Baltimore recalled the priests, sent out others and in 1641 issued new conditions of plantation. The latter introduced the English statutes of mortmain into the province, which provided that no land could by held by any corporation, or society, ecclesiastical or secular, without the specific sanction of the government. Meanwhile Governor Calvert and Secretary Lewger had won the support of the Assembly and had secured acts of Assembly giving jurisdiction over marriage and testamentary cases to civil officers.

That toleration actually existed may be concluded from the fact that a number of different sects, when driven from their homes came to Maryland. In 1643 when Virginia enacted a law requiring all ministers to conform to the ritual of the Church of England and directing the governor and Council to compel all non-conformists, upon notice to leave the colony, the latter requested and obtained permission from the Maryland governor to settle in Maryland. Assured of freedom of worship, of no demands being made upon them save obedience to the laws, fidelity to the Lord Proprietor and the customary quit-rents, they came to

Maryland and founded the Puritan settlement of Providence on the Severn River.

Following the "Plundering Time" of Claiborne and Ingle (1644—1646) Baltimore decided to allow no basis for future attack upon his government on the pretext that it was Roman Catholic. To that end he appointed William Stone, a Protestant, governor and an equal number of Protestants and Roman Catholics on the Council and introduced the following passage into the governor's oath of office: "I will not by myself nor any person, directly or indirectly trouble, molest, or discountenance any person whatsoever in the said Province professing to believe in Jesus Christ, and in particular any Roman Catholic for or in respect of his or her religion or in his or her free exercise thereof within the said Province so as they be not unfaithful to his said Lordship nor molest nor conspire against the civil government established here, nor will I make any difference of persons conferring offices, rewards, or favors proceeding from the authority which his said Lordship had conferred upon me as his Lieutenant here for or in respect of their said religion respectively, but merely as I shall find them faithful and well deserving of his said Lordship.... and if any other officer or person whatsoever shall, during the time of my being his said Lordship's Lieutenant here without my consent or privily, molest or disturb any person within the province professing to believe in Jesus Christ merely for or in respect of his or her religion or the free exercise thereof, upon notice or complaint thereof made unto me I will apply my power and authority to relieve and protect any person so molested or troubled whereby he may have right done him for any damage which he shall suffer in that kind and to the utmost of my power will cause all and every such person or persons in that manner to be punished."[1]

The members of the Council were also obliged to take the first provision of this oath.

In 1649 the Assembly gave its attention to matters of religion. Under the title, "An Act Concerning Religion" the penalty of death was prescribed for anyone denying Christ to be the Son of God, for unbelief in the Trinity, or for blasphemy against any-

[1] Proceedings of the council, 1636 to 1667, page 209 on.

one of the Trinity. The use of Heretic, Papist, Jesuit, Puritan, and similar terms in an opprobrious sense was forbidden under heavy penalties. Scurrilous remarks in connection with the Virgin Mary, the Apostles and Evangelists were to be punished by fine. "And whereas the enforcing of the conscience in matters of religion hath frequently fallen out to be of dangerous consequence" no person professing faith in Jesus Christ was to be in "any way compelled to the belief or exercise of any religion against his or her consent". Anyone who wilfully wronged another professing faith in Christ on account of his religion was to pay treble damages to the individual wronged and to forfeit twenty shillings. Swearing, drunkenness, unnecessary work or disorderly recreation on Sunday were forbidden.

It may be justly stated that this act failed to provide complete toleration, yet in view of the world tendency of the epoch it was a step of no small importance. Its toleration extended only to a trinitarian form of Christianity. But in comparison with the policy in other parts of the Kingdom of England and its dominions, it was a great improvement. In England persecution of any religious communion except that of the Established Church was enforced by statute; in Massachusetts worship according to the Church of England was forbidden, and in Virginia those who failed to conform to the English ritual were expelled. In Maryland the form of worship was free at least, and in reality toleration became the settled policy of the province and remained constantly in effect except during such periods as the proprietary charter and authority were held in abeyance.

Quakers, persecuted in England and in Massachusetts, in the latter colony even to the extent of being hanged, found Maryland a haven or refuge and came to the Province in large numbers. By the year 1661 there were so many that they held regular meetings in the province. In 1672 George Fox, founder of the sect, visited the Quakers established in Maryland and attended a large meeting at West River, Anne Arundel County, which lasted four days, and later another in Talbot which lasted five days.

Instead of taking the oath of fidelity, they were allowed to take a modified oath, providing for submission to Lord Baltimore's authority and that of his legally constituted government. However

many refused to subscribe to this agreement and sought to persuade others who had signed it, to renounce it. They refused to bear arms, take the juror's oath or give evidence in court, and sought to dissuade others from performing such acts. Their interpretation of being "governed by God's law and the light within them, and not by man's law" frequently brought them into conflict with the authorities in the province. Their attitude made the governor and Conncil feel that it was necessary to issue an order for the banishment of those among them who were insubordinate. Should they afterwards return they were „to be whipped from constable to constable until out of the province."[1] Thurston, one of the Quaker leaders was summoned to appear before the authorities for being in the province after banishment, but on his plea that he had not been out of the province and could therefore not return no judgment for "whipping him out of the province" could be given.

A sect of quietists or mystics, called Labadists, after several forced migrations, finally found a resting place under the government of Maryland.[2] The founder of the sect, Jean de Labadie, a Frenchman, felt that it was his mission to restore the church to its pristine purity. He had been Jesuit, Calvinist and even held the Quaker doctrine of the inward illumination of the spirit. The property of the sect was held in common and as a part of its communistic ideas, the sect's views on marriage were somewhat unconventional. Peter Sluyter and Jasper Dankers in 1683 brought a number of Labadists from Wiewerd in Friesland, where the sect was then established, and settled on land secured from August Hermann of Bohemia Manor. They lived frugally under the harsh and arbitrary rule of Sluyter until 1698 when the property was divided and Sluyter who had succeeded in having the title to the land made out in his name, retained enough to make him wealthy. Twenty years later the sect seems to have disappeared.

With the overthrow of proprietary authority in 1652 the government of Puritan commissioners immediately reversed the

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[1] Proceedings of the Council, 1636—1667, page 362.

[2] W. H. Browne, Maryland, History of a Palatinate, pages 133, 134.

policy of toleration. The first Assembly that met under the Puritan leader, William Fuller, passed a new "Act Concerning Religion". It repealed the act of 1649 and provided that no one of the Roman Catholic faith might be elected to represent the people in the Assembly, and that "none who profess and exercise the popish religion, commonly known by the name of the Roman catholic religion, can be protected in this province by the laws of England formerly established and yet unrepealed . . . but are to be restrained from the exercise thereof; therefore all and every person or persons concerned in the law aforesaid are required to take notice." It was further provided that "such as profess faith in God by Jesus Christ, though differing in judgment from the doctrine, worship and discipline publicly held forth, shall not be restrained from, but shall be protected in the profession of the faith and exercise of their religion, so they abuse not this liberty to the injury of others or the disturbance of the public peace on their part; provided that this liberty be not extended to popery or prelacy nor to such as under the profession of Christ hold forth and practice licentiousness."[1] Thus Roman Catholics and members of the Church of England and any sects coming under the heading of "practicing licentiousness" were to be deprived of the free exercise of their religion. But after six years of Puritan rule, Cromwell restored the province to Charles, third Lord Baltimore, with the stipulation that the Toleration Act of 1649 should go into effect and remain so permanently.

Meanwhile the standing of the Protestant clergy in Maryland was deplorable. For more than fifty years the Church of England had no organization whatever in the province and the sole provision for the payment of its clergy was by voluntary gifts. The Lower House, composed almost entirely of Protestants favored the enactment of a law for the maintenance of ministers, but the Upper House, composed of the Roman Catholic office holders would not hear of such a law, and the mere mention of it was sufficient to create stormy opposition from the Upper House. This difference in religious sentiment between the two Houses added an element of discord to the continual conflict of material

[1] Maryland Archives Proclamation of Assembly, 1637/38, 1664, p. 340.

interests between the two houses. In 1676 the Rev. John Yeo drew the attention of the Archbishop of Canterbury to the fact that but three clergymen in the province were conformable to the doctrine and discipline of the Church of England. He suggested the advisability of imposing a tax for the maintenance of such ministers. The letter was referred to the Bishop of London, thence to Lord Baltimore. The latter stated in reply that three quarters of the province's inhabitants were Presbyterians, Independents, Anabaptists or Quakers, and that it was scarcely just to tax the majority of the population for the support of a church to which they did not belong.

Yet the tide of events was destined to sweep aside such obstacles as well as the Lord Proprietor's clearly expessed chartered right to the control of the church in his province. The establishment of royal government in the last decade of the 17th century brought with it a complete change of policy. The first Assembly under the Royal Government passed an act for the establishment in the povince of the Church of England. Each county of the province was to constitute a parish; vestrymen and a board of trustees were to be chosen and directed to build churches in their respective parishes; an annual tax of forty pounds of tobacco was to be imposed on all taxable persons for the support of the clergy of the Church of England. Supplementary acts were passed in 1694, 1695 and 1696. The last one provided "that the Church of England, within the province, shall enjoy all and singular her Rights, Privileges, and Freedoms, as it is now, or shall be at any time hereafter, established by Law in the Kingdom of England: And that his Majesty's Subjects of this Province shall enjoy all their Rights and Liberties, according to the Laws and Statutes of the Kingdom of England, in all Matters and Causes where the Laws of the Province are silent." [1] This act introduced disabilities into the province which had caused many of the settlers to leave England and aroused opposition which was sufficiently strong to effect its disallowance by the king.

The newly established church was weak and without organization. The clergy therefore petitioned the Bishop of London

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[1] Lower House Journal, July 3—10, 1696.

for a commissary or suffragan with sufficient power to firmly establish the church. This led to the appointment of Dr. Thomas Bray, who first spent some time in England securing parochial libraries and inducing ministers to go to the province. After the veto in 1699 of the church act of 1696, he hastened to the province to use what influence he might be able to exert for the passage of another. He was an individual of personality and soon acquired considerable influence over the Assembly. In 1700 a bill was framed and passed in accordance with his ideas but it provided for the use of the Book of Common Prayer in every church or house of public worship in the province. This was opposed by Catholics, Quakers and Dissenters who prevailed upon the king to withhold his approval. During this year Dr. Bray held a visitation in Annapolis, disciplined a number of offenders and gave the church a favorable impulse toward better things. In 1701—1702 a bill drafted by Dr. Bray in accordance with the wishes of the home government passed the Assembly and became law, and remained in force with minor changes until the Revolution of 1776.

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This law contained provisions for the local government of the different parishes and for the appointment and induction of ministers by the governor. Ministers could hold but a single charge unless two adjacent parishes agreed to share the services of one. Freedom of worship and from all political disabilities was provided for Quakers and Protestant dissenters.

The English Church and a scheme of organization to carry it on were thus established in the province.

Bray returned to England soon after the passage of the Church Act of 1702 and tried to secure a parliamentary act providing for a suffragan bishop for Maryland. Its success depended upon the willingness of the newly appointed governor, Col. John Seymour, to forego the right of inducting ministers. The latter however felt that it was an effort to clip his authority and refused.

Meanwhile the Protestant clergy were in many cases leading lives of flagrant immorality, and the Assembly felt that some restraint should be imposed upon them. Accordingly a bill designed to meet the situation was introduced in the Assembly in November 1708 and passed both Houses but the governor refused his

assent for the reason that he had received no instructions from the home government. In 1714 Gov. Hart, who had just arrived in the province, called a meeting of the clergy so that they might become better acquainted with one another. To his chagrin, several members of the vestries of different parishes asked him to hear charges against their ministers. As he had no ecclesiastical authority, he declined but wrote to the Bishop of London suggesting the appointment of Jacob Henderson and Christopher Wilkinson as commissaries, one for each shore. This recommendation was favorably acted upon, but the results were unfortunate. The former, tactless and overzealous, quickly aroused widespread hostility. Resentment against him reached a climax when he seized the letters of orders and license of the Rev. Mr. Hall. The latter immediately secured a warrant from the governor for their return. A bill was then introduced into the Assembly designed to establish some sort of disciplinary control for the church and clergy but the majority, though Protestants, were not members of the Church of England, and their recent experience had made them wary of conferring such authority. They therefore refused to pass the bill in question.

Shortly after, the Bishop of London, invited the Rev. Mr. Colebatch to come to England from the province for the purpose of receiving consecration as suffragan of Maryland, but the Maryland Assembly on learning of his proposed action would not permit him to leave.

A bill for reducing the church tax from forty pounds per taxable person to thirty met with strenuous opposition from the clergy. After its passage Jacob Henderson was sent to England as their agent to secure the disallowance of the act. He was successful in his mission. At the same time he secured authority to act as commissary in the province. He made visitations, disciplined offenders and deprived one minister of his charge. His authority was then questioned, whereupon he showed his commission from the Bishop of London, as well as a copy of a commission obtained by the latter from George I making him diocesan of the province. But the Bishop's commission was faulty inasmuch as George II. was then King of England and the commission of his predecessor was no longer valid. Henderson was thus left without authority,

especially as the Bishop of London did not see fit to contest the Lord Proprietor's claims. He therefore ceased his efforts to act as commissary.[1]

His work in securing the disallowance of the bill of 1728 was promptly undone by the Assembly which passed a new law, providing for the payment of but thirty pounds of tobacco to ministers, the rest to be paid at the rate of one bushel of wheat for forty two pounds of tobacco, one bushel of corn or oats for twenty pounds of tobacco, or one bushel of barley for twenty four pounds of tobacco. This was assented to by the governor and became law.[2]

Prior to 1747 there was no provision as to the quality of tobacco to be paid the clergy. In general it was of the poorest quality. In 1696 the clergy complained, that their tobacco sold for one quarter to one half of what other tobacco sold for. This condition was remedied in 1747 by the Tobacco Inspection Act which improved the value of tobacco to such an extent that many of the clergy soon came to be very well paid.

But the lack of any competent authority to control the clergy was an insurmountable defect. Charles, 5th Lord Baltimore and Frederick, 6th Lord Baltimore, held tenaciously to their proprietary right to appoint the clergy. Appointments were not made on the basis of character and fitness but were viewed as prizes to be given to friends. Under such conditions clergy of a superior type rarely found their way to the province. Unless a minister enjoyed the friendship of the Proprietor there was no opening for him. Moreover when a minister was once appointed, no agency could remove him. Immorality went unpunished and the standing of the clergy as a natural result was not high.

In 1748 another attempt was made by the Lower House to create a body for disciplining the clergy. But Charles had given instructions against the transfer of his authority in this matter to anyone and the Upper House therefore refused to pass the bill.

In 1768 the Assembly passed a bill to establish a spiritual court composed of the governor, three laymen and three clergy-

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[1] N. D. Mereness. Maryland as a Proprietary Province, page 450.

[2] Ibid., pages 454—455.

men, but Gov. Sharpe obeyed the Proprietor's instructions and vetoed it. Frederick who had succeeded his father in 1751 had in the second year of his administration ordered the governor to allow nothing to infringe his right of appointing and controlling the clergy. This policy had been consistently followed, but upon the rejection of the bill in 1768 the Lower House declared its determination to pass the bill at every session until it became law.[1]

This effort met with success in 1771. Every minister was compelled to take several oaths to the government within four months of induction. Otherwise he was to be dispossessed of his position. If absent thirty days uninterruptedly or sixty days in all in a single year he was to be fined £10. Should the vestry lodge complaint with the governor, that its minister was leading a scandalous or immoral life, the governor was to appoint a commission composed of himself, if of the Church of England, if not, then the first member of the Council who was, and three ministers actively engaged in the province and three laymen of the Church of England. They were empowered in case of guilt, to admonish, suspend or deprive the offender of his living.[2]

The Inspection Act of 1747 was renewed periodically until 1770. At that time the Lower House favored a reduction of fees but the Upper House refused to agree. Neither House would recede from its position, so the governor issued a proclamation continuing the provision of the law of 1701—1702. The people were indignant over this act of the governor and everywhere resisted the collection of the tax. Shortly after some of the lawyers claimed that as the law had been passed by an Assembly chosen under writs of election and summons issued by King William who died before the Assembly met, and as a new election had not been held under writs of election and summons of Queen Anne, the law was not valid.[3] Many individuals refused to pay the tax and lawsuits that resulted were decided by the courts in favor of the people. But in 1773 the Assembly passed an act giving the clergy thirty pounds or four shillings for each individual instead of forty pounds of tobacco and the opposition of the people subsided.

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[1] N. D. Mereness, Maryland as a Proprietary Province, page 452.
[2] Ibid., pages 452—453.
[3] Maryland Gazette, September 10, 1772.

During the two last colonial wars between France and England (1740—1748 and 1756—1763) there had been considerable agitation against the Roman Catholics who were charged with sympathy with the French on account of their religion. Several efforts were made at these times to impose double and special taxes upon the property of Roman Catholics, but such acts were in most cases disallowed by the governor.

On one occasion the Lower House even passed "An Act for the Security of his Majesty's Dominions and to prevent the growth of Popery in this Province" which provided for the confiscation and sale of property belonging the Roman Catholics, the proceeds of which should be used for defending the province against the French.[1] But it failed to pass the Upper House. After the fourth colonial war this spirit died down throughout the province and thereafter nothing was heard of differences of that kind.

Though questions of religion and toleration had taken much of the time and attention of the people of Maryland, the church itself had exerted comparatively little positive influence in shaping life in Maryland. The Roman Church, though counting many of the richest and most influential families of the province among its members, had not become powerful as an institution. This had been prevented by the original policy of Cecilius. The Protestant sects were so divided and so ineffectively organized as to have little influence. The Established Church, corrupted by the lack of a proper system of appointing ministers and of ecclesiastical discipline enjoyed little prestige.

Yet the failure to esablish in its entirety the church system of the old world had at least a certain compensation in causing the people to look upon themselves as the source of authority, even in matters relating to the church, and thereby led to a strengthening of the tendencies toward democracy and popular government.

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[1] Lower House Journal, May 30, 1754.

CHAPTER IV.

FORM OF GOVERNMENT AND INFLUENCES TOWARD DEMOCRACY.

The Maryland charter had centered all power in government in the hands of the Lord Proprietor. He was given the exclusive power of creating offices, filling them and of prescribing their responsibilities and duties. Of the six proprietors but two visited the colony and both for short periods. The third Lord Baltimore spent the years from 1675 to 1684 in the province as Lord Proprietor and the fifth Lord Baltimore spent a year there during 1732—1733. As it was impossible to administer the colony from England it became necessary to delegate authority to representatives within the province, in the interest of a satisfactory administration.

The chief office created in the colony was that of governor. The individual appointed to this office also held the title of admiral and lieutenant-general. He was further made chancellor and entrusted with the Lord Proprietor's official seal which enabled him to issue, grants of land, commissions for office, pardons, proclamations and writs. As chief justice he was the dominant figure in the province's judicial administration. He was further empowered to appoint all officers necessary for the proper administration of justice and the enforcement of measures necessary for good government. Finally, he was empowered to convene the legislative assembly, prepare laws for its consideration, and agree to bills which it passed, and when necessary, to adjourn, prorogue or dissolve the assembly.

A Council was also provided for. Its members were theoretically appointed by the Lord Proprietor, but in reality, the

recommendation of the governor in this matter was the determining influence. Its relation to the governor was to be similar to that between king and privy council. All important decisions were to be arrived at by the governor in consultation with the Council. The councillors were to assist the governor with advice and in administrative work, and were to keep secret all matter of state. They, as well as the governor, were bound by oath to defend and maintain the rights of the Lord Proprietor and were not to accept office except at his hands.[1] Their term of office was to continue only during the pleasure of the Lord Proprietor. They were thus in every particular sworn to his service and dependent upon his will.

The Council was at first small, consisting of but three members in 1636. By 1681 it had been increased to nine; and after the establishment of royal government, twelve was the maximum, though there were rarely more than nine or ten. Changes in the Council rarely occured except by death or resignation.

In the beginning the duties of the Council, as is evident from its relation to the governor, touched every domain of government.

But with the growth of the power and pretensions of the legislative assembly, its activities were curtailed. After the Revolution of 1688 offices were created by act of Assembly, likewise the fixing of fees for government services, the imposition of taxes, and many minor activities which had formerly been regulated by the governor and Council.

Practically all the great offices of the province were concentrated in the hands of members of the Council. Its members were justices of the principal court and members of the legislative assembly; after 1650, they composed the Upper House of Assembly. The positions of secretary of the province, commissary general, attorney general, judge of the land office and provincial treasurer, were held by members of the Council, as well as many minor offices. It frequently happened that they held more offices than they could administer personally and as a con-

[1] Proceedings of the Council, 1636—1666, pages 209–214.

sequence disposed of certain of their offices to deputies for a consideration, a practice which the Lower House protested against on a number of occasions but to no avail.[1]

Less than a year after the founding of St. Mary's Gov. Calvert, called an assembly of the freemen of the province, which met February 26, 1634—1635. This Assembly enacted a number of laws which were sent to the Lord Proprietor for his assent. But he refused to give it, as he desired to initiate legislation himself, as provided by the charter, which read that the Lord Proprietor should have "free, full and absolute power, . . . to ordain, make and enact laws, . . . of and with the advice, assent, and approbation of the freemen of the said province."

A second Assembly was called two years later and met January 25, 1737—1738. Personal writs of summons had been issued by the governor, to members of the Council and a few other persons. All freemen were likewise permitted to take their seats in the Assembly or send proxies.[2] At this Assembly a body of laws from the Lord Proprietor was presented for acceptance as a whole and without amendment.[3] But these laws, which provided for a complicated system of government largely feudal in its nature were rejected by the Assembly. Such laws as the people felt were suitable were then taken from this body of laws and passed. This was contrary to instructions and the Lord Proprietor refused his assent when they were presented for his approval.

A letter from the governor and secretary of the province assured him that his draft of laws was not suitable to the newly settled colony and advised his acceptance of the Assembly's laws. Cecilius then forwarded instructions to Gov. Calvert to assent to such laws as the Assembly should pass providing they were reasonable and not contrary to the laws of England, reserving to himself, however, the right of ultimate veto.[4] The right of initiating legislation thus passed to the Assembly. This meant

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[1] Lower House Journal, November 2, 1709, July 1st, 1714, May 14, 1750.

[2] Proceedings and Acts of the General Assembly, 1637—1638 to 1664, page 1 on.

[3] Proceedings of the Council, 1636—1667, page 51.

[4] Proceedings and Acts of the General Assembly, 1637—1638 to 1664, page 31.

that the people should have a shaping influence upon legislation proposed, that bills could be introduced as circumstances required and that they might go into effect without unwarranted delay.

That the Lord Proprietor attached considerable importance to this point may be assumed from the fact that ten years later he sought to regain this right. At this time he sent out a body of sixteen laws, with the promise that if they were passed unamended as perpetual laws, he would allow the province to collect and retain onehalf of the customs duties levied on tobacco shipped in Duch ships. The Assembly declined to pass this body of laws stating in reply: „We do humbly request your Lordship hereafter to send us no more such bodies of laws, which serve to little other end than to fill our heads with suspicious jealousies and dislikes of that which we verily know not." [1]

After this failure the Lord Proprietor made no further effort to exercise his right but yielded it to the Assembly without further dispute.

In December 1638 writs of election were issued for the third Assembly. These were directed to each of the hundreds and to one manor. The former were instructed to each send two or more delegates, whereas no number was specified in the case of the manor. The members of the Council and three other individuals also received writs of summons.[2]

From 1641 to 1650 the governor summoned the freemen to appear at Assembly either in person, to send delegates or proxies. In 1650 the different hundreds decided to send delegates, varying from one to three, and from that time on, the representative system was in force in the province.

The General Assembly composed of governor, Council and freemen was unwieldy. In 1642 the delegates to the Assembly therefore requested that it be divided into two houses, the representatives of the people to form one and the governor and Council the other.[3] Gov. Calvert refused to grant this request. However

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[1] Ibid., pages 240—243.

[2] Proceedings and Acts of the General Assembly, 1637—1638 to 1664, pages 27—28.

[3] Proceedings and Acts of the General Assembly, 1637—1638 to 1666, page 130.

two years after his death (1647) Gov. Stone accepted such an arrangement and the first Assembly that met in 1650 passed an act providing for a system of two houses. The Lord Proprietor not only gave the act his approval but forbade its being changed. The same act further provided that no law could be enacted or repealed without the concurrence of both Houses. The importance of this advance in development toward selfgovernment cannot be overestimated. It gave the representatives of the people control over an integral and vital part of the government, a concession which came to be the most powerful weapon for the protection of their interests.

In 1654 the unit of representation became the county instead of the hundred. These two local divisions had at first been fixed by the Council. After 1689 they were fixed by acts of Assembly in the case of counties and by acts of the county courts in the case of hundreds. In 1670 the town of St. Mary's was given representation in the Assembly, but her representatives were given to Annapolis in 1708, fifteen years after the latter had superseded the former as capital of the province.

Prior to 1670 no qualification for voting or for becoming a delegate to the Assembly was necessary other than that of being a freeman. Considerable numbers of the colonists had come to the province as "redemptioners",—individuals who had had their way paid to the province and in discharge for this debt, were bound out to service for a term of years, generally from two to five. At the end of this period they became freemen. However in 1670 a property qualification of fifty acres of land or a visible state of £ 40 sterling was fixed as the necessary minimum for eligibility to vote or for election to the Assembly.[1] An act of 1678 which continued this restriction was vetoed, but on the establishment of royal government, it again went into effect and remained with but minor changes during the whole proprietary period.

The same bill of 1670 provided for the election of four delegates from each county. But in spite of the law, Gov. Charles Calvert began the practice of summoning but half the delegates elected, on the plea of economy but in reality to exclude dele-

[1] Proceedings of the Council, 1667 to 1687—1688, page 77.

gates opposed to his plans. In 1676 a petition signed by the delegates and people requested that a fixed number of delegates be elected and summoned and that in case of a vacancy, a writ should be immediately issued so that the vacancy might be filled.[1] Charles Calvert, who had become Lord Proprietor the preceding year agreed to this. During the session of 1678 an act of Assembly was passed providing for the election of four delegates from each county and two from the city of St. Mary's, all of whom were to appear at Assembly without the formality of individual summons. When the session of 1681 was called, the message of the Lord Proprietor contained the veto of this act, and directed that only two delegates be elected for the succeeding Assembly.[2] But the Assembly then about to meet had eleven vacancies, and the Lower House brought this fact to the attention of the Lord Proprietor adding that they considered it proper that the warrants for filling the vacancies should be issued by their speaker as was the practice in the House of Commons.[3]

They declined to proceed to business until these vacancies were filled. After considerable delay the Lord Proprietor instructed the secretary of the province to issue writs for filling the vacancies, In this way each county was fully represented. However, only two delegates from each county were elected the following year in accordance with his instructions. Under the royal government, the first Assembly passed an act prescribing the election of four delegates, and thereafter four were regularly elected. At the same time, the Speaker of the Lower House was given the privilege of instructing the secretary to issue writs for filling vacancies in the Lower House. This privilege was confirmed by an act of Assembly of 1718. Thereafter there was never further debate over this question.

The Lower House sought more and more to model its procedure upon that of the House of Commons. Thus the valuable rights secured by that body during the Revolution of 1688 awoke in Maryland the desire to have the same rights. The chief of

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[1] Proceedings and Acts of the General Assembly, 1667—1676, pages 507, 508.

[2] Proceedings of Council, 1671—1681, page 378 on.

[3] Proceedings and Acts of the General Assembly, 1678—1683, page 114.

these was parliamentary control over the imposition of taxes and the expenditure of public monies. Acts of Parliament were necessary for both, and as it was the practice of that body to make appropriation for limited periods, it was necessary that it be regularly convened.

With the exception of the periods from 1666 to 1669, 1671—1674, and 1681—1684, it was rare for a year to pass without a session of Assembly in the province. After the period of royal government, when annual assemblies had been the practice, there were but three years during the period from 1715—1775 that no Assembly met. Except during two periods of six years each (1671—1676 and 1676—1681) during the administration of the 3rd Lord Baltimore, elections took place at regular intervals of three years. In 1697, the Assembly was dissolved by Gov. Nicholson after a period of slightly less than three years. In doing this he stated that it was frobidden by law in England that the same Parliament should continue without a new election for more than three years and he considered it wise to follow the same rule in Maryland. This precedent was then regularly followed.[1]

Prior to the establishment of royal government, the governor and Council had at times expressed their disapproval of certain delegates in the Lower House and had thereby effected their unseating, but after that time, the Lower House admitted no such interference and considered itself the sole judge of the qualifications and election of its members. In order to maintain its entire independence of the proprietor, it would allow none of its members to accept office at his hands, and as part of this policy expelled four of its members in 1734[2] and two in 1750[3] for accepting office.

In accordance with English precedent financial bills originated in the popular house of Assembly. During the first century of the province's history financial disputes were regulated by messages and conferences between the two Houses but after 1740 the Lower House refused to recognize the right of the Upper

[1] Lower House Journal, June 11, 1697.
[2] Lower House Journal, March 25, 1734.
[3] Lower House Journal, May 8 and 9, 1750,

House to amend financial bills and declined even to confer with it concerning financial matters.

Until 1681, Charles, 3rd Lord Baltimore recognized no time limit within which his veto of an act of Assembly should be given. But stormy protest growing out of his action in 1669 and again in 1671 when he vetoed acts of Assembly which had been in force several years,[1] resulted in his agreement to approve or veto all acts passed by the Assembly before the end of the session, if in the province, and within eighteen months, if elsewhere.

The judicial system as originally established was composed exclusively of appointees of the Lord Proprietor. Gov. Leonard Calvert, was chief justice of the province and the members of Council were associate justices. The governor in addition had the privilege of creating such further minor offices as were necessary for the proper execution of justice. He also had the right to try and judge all cases, civil and criminal, except such as involved the loss of life, limb or freehold, when at least two members of the Council should take part in the trial.[2]

The Assembly had tried all kinds of cases prior to its division into two Houses in 1650. Thereafter the Upper House became purely a court of appeals and after 1692 this jurisdiction was transferred to the governor and Council whereas the Lower House exercised no judicial power, other than the trying of minor officers for failing to perform their duties properly.

In 1638 was constituted the county court known after 1642 as the provincial court, composed of the governor as chief justice and the members of the Council as associate justices.[3] Next to the Upper House of the legislature this was the supreme court. But they were in reality one and the same thing, as both were composed of the governor and Council, though after 1675 the governor no longer formed part of the Upper House.[4] There was scant likelihood of an appeal from one being reversed by

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[1] Proceedings and Acts of the General Assembly, 1666—1676, page 161.

[2] Proceedings of the Council, 1636—1667, page 53.

[3] Proceedings and Acts of the General Assembly, 1637—1539 to 1664, pages 47—49.

[4] Proceedings of the Council, 1671—1681, page 10.

the other. The local county courts were likewise controlled in the beginning by these officers.

Until 1661 the governor was justice of the chancery court; from 1661 until 1689, Philip Calvert held that office. Until 1684 admiralty cases were handled by the provincial court, but in that year the admiralty court was separately constituted. In 1638—1639 an act of Assembly empowered the secretary of the province to act as judge of probate; this continued in force until 1763 when this office was transferred to the chancellor.

As so many offices were concentrated in the hands of a few officers appointed by the Lord Proprietor, during his pleasure and sworn to the defence of his interests, it was not to be wondered at that the judicial system was regarded as the guarantee of privilege rather than as the bulwark of justice. The people took the same attitude toward the entire office holding class. The primary object of those who formed this class was personal enrichment. The permanent welfare of the colony was a minor consideration. Their idea was briefly: government for the governing class.

But the people had secured certain rights which were to be of immense value to them in extending their control over the Maryland government. Chief of these were the control over the Lower House of Assembly and the need of its agreement for the passage of any act. The control of this branch of the government was sufficient to insure success in the major controversies for popular liberty in spite of the fact that all other branches of the government were in the hands of the Lord Proprietor or his representatives.

During the seventeenth century the rural and detached life of the average Marylander who spent his live cultivating tobacco was not conducive to an intense political development. But with the steady growth of population increased by immigration from England and the strong tide of immigration of German Palatines in the 18th century a more active political life came into being.

The German Palatines were responsible for a large share of this development. They had been induced to come to the province by offers of land and exemption from all public levies.[1]

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[1] Lower House Journal, October 27, 1710.

As early as 1710 there were considerable numbers in the province. Later new settlers were offered two hundred acres of land if married, and if between the ages of fifteen and thirty and single, one hundred and fifty acres, free of charge and exempt from quit-rents for the first three years. By 1774 Frederick County had a population of fifty thousand, chiefly German Palatines—nearly one seventh of the population of the province. The motive leading to the granting of such terms had been to secure the settlement of territory along the disputed Pennsylvania boundary.

These settlers, instead of concentrating on the cultivation of tobacco, planted wheat and corn and developed the iron and lumber industries of Maryland. In a short time tobacco no longer represented the entire export from the province; wheat, corn, flour, pig iron, bar iron and lumber became important exports. With this development of commerce and intercourse a more active political life appeared, and with it a constantly increased effort toward restriction of the proprietary power. The indifference to and abuses of the real interests of the people by the office holding class, the fact that the holders of the most lucrative offices were in many cases relatives of the Proprietor, and the antipathy growing out of the difference of religion of the Roman Catholic office holding class and the Protestant population, inevitably led to hostility toward the government.

The people failed to understand why taxes should be collected for the benefit of the office holder and not in the interest of the public. Further when officers who held more positions than they could administer properly, sold them to deputies the situation was aggravated further and the Lower House protested energetically, stating that "The sale of offices, now open and avowed, obliges the purchaser, by every possible means in his power, to enhance his fees; this is contrary to law and leads directly to oppression." [1]

The personalities of the later proprietors were not such as to inspire friendly relations, Charles, 5th Lord Baltimore neglected his province and executive authority waned perceptibly during his administration. Frederick, 6th Lord Baltimore, was inferior

[1] Lower House Journal, December 20, 1769.

mentally and degenerate in personal character. His sole interest in the colony lay in securing sufficient income to live in luxury, and to find profitable positions in the colony for his friends. His illegitimate son, Henry Harford, who inherited the province in 1771 had no real influence upon the colony, as greater events prevented his retaining it for any length of time.

Able men were found in the province to lead the movement for popular control. Though educational facilities there were hopelessly inadequate, there were many well educated men in the province. The young men in many cases went to Virginia to study at the college of William and Mary or to the Academy in Philadelphia, whereas the sons of the wealthier families often studied in England, at Oxford or Cambridge, and if Roman Catholics, at universities in France.

As a logical result of conditions in the colony, practically all these men chose the study of law. There was no future in the church. The school master had no opening. There was no army. On the other hand there was ample field for action in politics. The way to prominence and power was through election to the Lower House of Assembly. But for this it was necessary to serve the interests of the people or else lose their support. In this way the people found men who ably championed their cause. Thus, although the average of education of the common people was low, their political rights were skilfully maintained.

The 17th century had seen no intense political controversies. But conditions were such as to justify the desire of the people to effect such changes in the government as would make it more responsive to the common will. Moreover, they had acquired control over sufficient governmental machinery to make it possible and the personalities needed to direct the movement were not lacking.

CHAPTER V.

PEOPLE vs. PROPRIETOR.

The history of Maryland during the 17th century had been comparatively tranquil insofar as it related to direct struggles for power between proprietor and people. But following upon the restoration of the province to Charles, 5th Lord Baltimore, after twenty three years of royal government, a period of wrangling and controversy set in, that nothing save a fundamental change in government could terminate.

One of the chief early controversies centered upon the question of how far the English common and statute law extended to the province. During the first thirty years of the colony's existence, the tendency had been toward an independent criminal code. By the end of 1650 there were specific laws regulating judicial procedure in cases of drunkenness, adultery, profanity, perjury, mutiny, sedition and general resistance to the execution of the law, but in cases where the provincial law was silent, the individual judges were left to decide cases as they saw fit, their sole instruction being to use their "sound discretion". In 1662 the Assembly enacted a bill providing for the administering of justice in accordance with the laws of England in cases where the provincial law made no provision, the interpretation and application of such law being left to the judgment of the individual courts.[1] This system remained in effect until 1674, with the natural result that the law was variously applied, often to the complete prostitution of justice.

In 1674 the Lower House sought to have the British law as a whole introduced into the province, but the Upper House would

[1] Proceedings and Acts of the General Assembly, 1637—1638 to 1664, pages 435, 436, 448.

not agree to an arrangement which would thus nullify a large part of the Proprietor's privilege. The Lord Proprietor was willing that such parts as were suitable to the province be introduced as long as they did not contravene his proprietary rights. The people desired the whole or at least that the right of selection be left to the courts. The result of their differences was that nothing was done and the status of the law reverted to what it had been in 1650.[1]

The question was agitated on several occasions prior to the period of royal government under William and Mary, always without result. The latter part of the regime of Charles had been so arbitrary and illadvised that the people clung more tenaciously than ever to the fundamental English law. With the institution of royal government it immediately became the established and unquestioned practice to administer justice according to the laws of England where the laws of Maryland were silent. All commissions to justices of the courts read to that effect. Therefore when Charles, 5th Lord Baltimore, seven years after the restoration of the province, held that no English laws extended to Maryland unless the dominions were expressly mentioned, the members of the Lower House were aroused over the possibility of losing what they considered essential guarantees of liberty. They thereupon adressed a protest to the Lord Proprietor, stating that the colonists in coming to the colony had forfeited none of their rights as free Englishmen, that the "province hath always hitherto had the common law and such general statutes of England as are not restrained by words of local limitation, and such acts of Assembly as were made in the Province to suit its particular constitution, as the rule and standard of its government and judicature." Anyone who held the contrary, intended to "infringe our English liberties, and to frustrate the intent of the crown in the original grant of this province."[2] Standing resolutions to this effect were then inscribed upon the books of the Lower House and remained until the Revolution of 1776.

Daniel Dulany, Sr., attorney general and member of the Lower House drafted a bill during this session (1722) designed to define the relationship of the English law to the province. It provided

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[1] Ibid., 1666 to 1676, pages 347—349, 374 on.

[2] Lower House Journal, October 22, 1722.

that all judges in taking their oath of office should swear to administer justice "according to the laws, statutes, and reasonable customs of England and the acts of assembly and constitution of this province and passed by both houses of assembly." But the law was vetoed, and similar laws enacted in 1727, 1728 and 1730 met the same fate. Each veto intensified the people's fears and their determination to secure the passage of such a law. The year 1731 again saw the failure of a similar bill. The following year a conference between the two Houses of Assembly resulted in the drafting of a bill for judges to take oath to administer justice "according to the laws, customs, and directions of the acts of Assembly of this province so far forth as they provide, and where they are silent according to the laws, statutes, and reasonable customs of England as used in the province." This law was passed and received the Lord Proprietor's assent.

The Lower House and the people were in holiday mood over this success, yet the Proprietor had in reality sustained his original contention and the English law in gross had not been introduced into the province. Nor did he allow any bill to pass which would bring abut such a condition. On the other hand, the Assembly from time to time declared certain especially desired statutes as being in effect in the province.

During this controversy, crime had been in many cases allowed to go insufficiently punished, as the judges had no fixed guide to go by and as a natural result, the lack of severity and rigor in its suppression brought about an increase of lawlessness.

In general the chief controversies centered upon financial questions. During the early history of the province there was little friction either as to the imposition of taxes, their collection, or the manner of expenditure, but the end of royal government and the newly restored proprietary government in 1715 brought many controversies, which grew continually more acute. As the province grew the people began to question more and more the reasons for furnishing livelihood and income to men who were imposed on the colony from above and were designed to protect the interests of the proprietor as opposed to the people's.

All duties, fees, taxes and revenues from whatever source had practically from the beginning been collected with the approval

of the Lower House. Already in 1650 an act of Assembly was passed prohibiting the imposition of any tax or duty without the consent of the people or their representatives. This policy was insisted upon at all times. But the efforts of the Lower House were not merely limited to passive defense of this point of view but to the influencing of legislation which would extend its power at the expense of the Proprietor's.

One of the chief disputes related to a duty levied to provide revenue for carrying on the Maryland government. In 1671, the Assembly, in return for the Proprietor's agreement to accept payment of his quit-rents at 2 pence as the equivalent of a pound of tobacco, passed an act providing for this rate and for the imposition of a duty of 2 shillings on every hogshead of tobacco exported, 12 pence of which were to be paid the Proprietor for the support of government. This arrangement was to remain in effect during the lifetime of Cecilius, but was continued under his son Charles, even during the period of royal government. In 1704 the portion of the bill relating to the payment of the 12 pence duty was made perpetual.

In 1715 after the short proprietorship of Benedick Leonard and the succession of the 2nd Charles, the perpetual law was temporarily superseded by another act for the support of government. This continued until 1733. The feeling had been growing that the quitrents were burdensome and the law was therefore not renewed in 1733. But immediately on its expiration the perpetual law of 1704 relating to the 12 pence duty went into effect. But there was no law lowering the rates of quit-rents and the Lower House was impotent to effect such a change without an act of Assembly assented to by the Proprietor, and this the latter refused to agree to. The Lower House therefore made an effort to find some flaw in the original law.

Under the royal government one quarter of the 12 pence duty had been used for military purposes, though there was no express provision for it. But the Lower House now advanced the argument that this should be the practice still, and if it were not the entire original law was invalid. On that theory a bill was introduced by the Lower House in 1739 for continuing the duty of 12 pence, £ 1000 of which were to be used for the purchase

of arms and ammunitions for the defence of the colony. But the Proprietor, unassailable from a legal point of view in the act of Assembly of 1704, withheld his assent. The question was brought up at various times thereafter but always with the same result. From 1750 the Lower House adopted a standing resolution declaring the duty illegal, unless one quarter were applied to purposes of defense as under the royal government.

The members of the Lower House sought to have an act of Assembly passed for the appointment of an agent to present the case to the crown, knowing full well that the Proprietor would not give his assent. They were in reality quite conscious of the weakness of their case, and the perfect legality of the Proprietor's position, but used his refusal to give the impression that he feared to expose the case to the light.

Prior to 1739 all fines and forfeitures imposed by the province's penal laws were made payable to the Lord Proprietor. No accounting of these monies was made to the Lower House for a century. After 1739 it refused, to pass bills for fines of any sort, the proceeds of which should go to the Proprietor, but insisted that such impositions should go to defray expenses of the government. But though they could thus block any new impositions, they were powerless to change the law then in force. But they found another way of exerting pressure. From 1745 the Lower House declined to allow claims for certain expenditures on the plea that the money arising from fines and forfeitures should be used for such purposes. Gov. Sharpe was refused £ 120 that he had advanced for the carrying of letters during wartime, on this ground, and the salary of the clerk of the Council was likewise refused, for the same reason.

The governor's council had been paid from 1671 to 1689 from the 12 d duty for support of government, and during the period of royal government from poll taxes. But there was no specific provision for their salaries as members of the Council, whereas their pay as members of the Upper House was provided for by law. An incident brought this question to the attention of the Assembly and it quickly became a center of irritation. During the years 1709—1714 the province had been without a regular governor. During that time Edward Lloyd, the president of the

Council, acted as governor. He drew one half pay as governor and full pay as councillor. The Lower House asserted that the drawing of salary as governor and councillor was a breach of law, and that Lloyd should therefore refund £ 52.13.6 and 29,580 pounds of tobacco, pay he had received as councillor during that time.[1] Supported by the Council, he declined to comply. The Lower House did not succeed in securing the reimbursement of these funds. But after studying the question it concluded that the members of the Council were entitled to no salary as councillors, there being no legal provision for it, but merely precedent. They asserted further that is was contrary to reason to tax people to pay men hostile to their interests. As a consequence the Lower House refused to make provision for the Council from 1725—1735. In the latter year the Upper House refused to pass the journal of accounts unless their salaries as members of the Council were provided for.[2] The Lower House, thus checkmated reluctantly provided for the salaries of the Council. This continued until 1747. The following year, when the Upper House pursued the same tactics, the Lower House preferred to forego its own salary, rather than to appropriate anything for the Council, and no accounts were passed until 1756 when the Upper House yielded. Thereafter it never urged its own pay.

An act of 1678 provided for the raising of a revenue by requiring hawkers, peddlers, inn-keepers, and tradesmen to purchase a license to ply their trade. Toward 1750 the value of revenue from this source was between £ 400 and £ 500. This money was given to the secretary of the province until 1689. During the period of royal government, the Lower House withheld such income from the royal secretary asserting that it should be expended for the public welfare, whereupon Sir Thomas Lawrence, the 1st royal secretary, appealed to the crown and had this money confirmed to his use. But ten years later the Assembly again withheld it, even in the presence of a royal order to the contrary.

Upon the restoration of the Proprietor in 1715 Charles, 5th Lord Baltimore gave the money to the two secretaries, requesting

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[1] Lower House Journal, July 20, 1716.

[2] Upper House Journal, May 4, 1736.

the Assembly to confirm this by an act of Assembly. This the Assembly did. This system was continued until 1739. With the breaking out of the Third Colonial War the license money was used by order of the Assembly for redemption of the bills of credit issued to assist the crown in waging the war.

Frederick, who became Proprietor in 1751, complained of this last procedure and instructed the governor to assent to no further act of the kind. But when news of Washington's repulse at Long Meadow by the French arrived, Gov. Sharpe urged an appropriation, and the Assembly offered to devote the license money to this use, an arrangement which Sharpe accepted. After Braddock's defeat, the Proprietor assented to its use for military purposes against the French. This procedure continued without opposition until 1763.

Frederick then opposed its use for any purpose other than his own use. He sent instructions to the governor to countenance no bill depriving him of the sole right of granting licenses and receiving the income from that source. But the Upper House as well as the Lower felt that this was unjustified. As soon as this instruction was brought to their attention, the board of the Council appointed a committee, which reported that it found no justification for such a claim. It observed that in England anyone could follow any trade without a license from the crown, that the charter assuredly granted the Proprietor no higher prerogative than belonged to the crown, and if the Proprietor had a right, he doubtlessly had a remedy to enforce it. But no remedy was known to the committee. The governor transmitted the report to the crown, adding that any effort to enforce the Proprietor's view point would create untold friction and opposition. The Proprietor thereupon withdrew his objection and allowed the license money to be used for public purposes.

A further important source of revenue and contention was that of fees. Prior to 1650 the governor and Council had fixed the amount of fees except during the three years from 1639 to 1642. But beginning with the Assembly of 1650 fees to be paid the secretary and sheriffs were regulated by joint action of both Houses, and later, those of other officers. In 1669, charges by the Lower House that excessive fees were being collected, merely

brought the response that it was the Lord Proprietor's right to fix fees, and the Lower House acquiesced in this point of view. However, in order to avoid the collection of extortinate fees, the Lower House in 1676 requested the Lord Proprietor to furnish the rates of fees fixed up to that time, whereupon it passed a bill fixing those rates as the maximum to be collected for the services in question.[1]

With the advent of Royal Government instructions from the Crown were issued to the governor instructing him to regulate fees in conjunction with the Council. But the Lower House in its first session protested energetically against such an arrangement and succeeded in securing the agreement of the governor to make no changes in fees without the concurrence of the Lower House.

A growing feeling in the Lower House and among the people that fees were excessive began to manifest itself during the later years of Royal Government. Agitation for a downward revision of fees was justified on the plea that the growth of population and the consequently greater receipts permitted such a change without reducing the incomes of officers to any point approximating what they had been when the original scale of fees had been fixed. Several attemps during the latter period of Royal Government had no result other than to arouse bitter feeling between the two Houses. The members of the Upper House invariably urged that the incomes of officers were not out of proportion to services rendered and that their reduction would only result in lowering the dignity of the different offices.[2] After the passage of a bill providing for a 25% reduction of fees by the Lower House in 1719, which was promptly rejected by the Upper House, a conference between the two Houses was called. A compromise was then agreed upon, which left unchanged the fees of the chancellor, sheriffs, coroners, clerk of the court of appeals, and the criers of the provincial court and of the county courts, whereas the fees for the secretary, commissary general, surveyor general, and his deputies, the clerk of the Council, and

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[1] Proceedings & Acts of the General Assembly, pages 498—499.

[2] Upper House Journal, June 29th—30th, 1714.

the county court clerks, were reduced in accordance with the bill of the Lower House.[1] When the bill came before the Lord Proprietor, though disapproving of it, he decided to take no action against it.

In 1728 the Lower House endeavored to effect a further reduction of fees, justifying their action on the grounds that the intention of the government to decrease by law the planting of tobacco during that year by one-third and thus increase its price, made it necessary. But on this occasion the Upper House would neither accept such an arrangement nor compromise. The law of 1719 therefore expired in 1725 and the colony had no table of fees. This situation was brought to the attention of the Lord Proprietor who in 1733, after another failure of the Assembly to provide a suitable bill the preceding year, issued a proclamation fixing the amount of fees at a level approximately the same as that of 1719. He had but recently come to the province and his presence there seems to have been sufficient to insure the quiet acceptance of his proclamation.

The regulation of fees and the state of the tobacco industry were intimately related. Tobacco was not only the principal crop and staple export, but from the beginning was the unit of value, being used as currency. But one fatal defect had been permitted to creep in. In the laws providing for the amounts of rents, fines, salaries and taxes to be paid, no reference was made as to the quality of tobacco to be paid. Consequently worthless tobacco was often mixed with the good, and a certain quantity did not represent a definite value. The same defect of variable quality obtained in the case of tobacco for export, a fact which severely prejudiced the value of Maryland tobacco in foreign markets. Overproduction further aggravated the situation and prices fell steadily. In 1639 tobacco had been worth 3 pence a pound, whereas by 1666 over-production combined with the plague in England and consequent interruption of the carrying trade had rendered tobacco practically worthless, and thereafter until 1747 it was rarely worth a penny a pound.

The combined evils of over-production, poor quality and a late market brought the industry to the verge of ruin toward

[1] Upper House Journal, June 6, 1719.

the middle of the 18th century. The great obstacle to the regulation of the tobacco industry was the question of fees. The Lower House would not agree to a tobacco inspection act, as this would have increased the value of tobacco, and officers fees would then have been higher than ever. The Upper House on the other land, would not agree to a radical lessening of fees and a resultant decrease of officers incomes.

In 1743 Daniel Dulany, Junior, in conjunction with the governor and the remainder of the Council, made a supreme effort to arrive at a solution of this question, explaining that it was to the interest of both Houses to yield. By 1745 an agreement between the two Houses was reached whereby fees were to be reduced 20% and tobacco was to be inspected and graded. But though it passed both Houses the governor rejected it, in retaliation for the Assembly's failure to pass a suitable bill for the purchase of arms and ammunition for use in the Third Colonial War then in progress.

The tobacco industry was the basis of the prosperity of the colony and regulation of the tobacco industry and revision of officers fees were necessary, otherwise ruin was inevitable. By 1747 the opposing elements composed their differences and the Inspection Act of 1747 was passed and received the approval of the governor. It combined the reduction of fees agreed upon two years before with provisions for inspecting and grading tobacco. The desired effect was quickly arrived at and the improvement of the tobacco market was rapid. Moreover, the act worked no hardship on the officers as their income was in reality undiminished as increased value compensated for reduced quantity.

This act was renewed periodically until 1770, when the Lower House refused to continue it without a further reduction and classification of fees. But the Upper House would not agree, and though message followed message from one House to the other, neither would recede from its stand, whereupon the governor, after consultation with the Council, issued a proclamation continuing the old table of fees.[1]

This set the Lower House in a turmoil of excitement. It asserted that the proclamation was an abuse of power, that it

[1] Lower House Journal, October 17, 1771.

was not only illegal but arbitrary and oppressive, and not even an English monarch had been known to regulate the salaries or fees of officers by proclamation. They then petitioned the governor to withdraw it, adding that even in the case that "the fees imposed by this proclamation could be paid by the good people of this province with the utmost ease, and that they were the most exactly proportioned to the value of the officers' services, yet even in such a supposed case, this proclamation ought to be regarded with abhorrence; for who are a free people? Not those over whom government is reasonably and equitably exercised, but those who live under a government so constitutionally checked and controlled that proper provision is made against its being otherwise exercised. This act of power is founded on the destruction of this constitutional security. If prerogative may rightly regulate the fees agreeable to the late inspection law, it has a right to fix any other quantums; if it has a right to regulate to one penny, it has a right to regulate to a million; for where does its right stop? At any given point? To attempt to limit its right after granting it to exist at all is as contrary to reason as granting it to exist at all is contrary to justice; if it has any right to tax us, then whether our own money shall continue in our own pockets or not depends no longer on us but on the prerogative: there is nothing which we can call our own. The forefathers of the Americans did not leave their native country and subject themselves to every danger and distress to be reduced to a state of slavery." [1]

But the governor remained obdurate. He held that in the Proprietor's chartered right to establish offices and appoint officers was included the corollary right of fixing their salaries. He further cited precedent within the colony and insisted that it was necessary for the prevention of confusion and extortion. Efforts to regulate the question in two succeeding sessions of Assembly were fruitless, the temper of the people meanwhile becoming more and more agitated.

An article appearing in the Maryland Gazette, the provincial newspaper, removed the main discussion of the question from

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[1] Lower House Journal, November 30, 1771.

the legislature to the public and brought the question to the attention of the entire province. This article was in the form of a dialogue between two citizens. — "The First Citizen" attacked the proclamation and "The Second Citizen" defended it, the latter point of view supposedly representing the legal and just one. Soon after a further article appeared and maintained that the "First Citizen's" view-point had been incompletely presented and that it was therefore necessary to supplement it with further facts.

Though the articles were anonymous they were recognized as the work of Daniel Dulany, Jr. who favored the proclamation and Charles Carrol of Carrolton, who represented the popular point of view. They had both been educated in Europe, — as was the case with a large number of the leading men in the province, — the former in England and the latter at the Jesuit College of St. Omar and then at the College of Louis XIV. in Paris, followed by seven years study of English law as a member of the Inner Temple.

Dulany, though enjoying great popularity a few years earlier because of his defence of the colonial view-point in the Stamp Act controversy had gradually lost influence with the people because of his own and his family's relationship to the Lord Proprietor. As secretary-general of the province he held the most profitable position of the colonial government, whereas his brother, as commissary-general held a position little less lucrative. In addition two other members of this family were members of the Council.

This was the point of attack in Charles Carrol's first article.[1] He wrote that the government was being perverted for the "selfish views of avarice and ambition", that the country was suffering for the lack of the Inspection Act whereas fees collected under that act were continued in order that certain officers of the Council should not have their incomes lessened. A fortnight later Dulany wrote a further article for the "Gazette" in defense of the proclamation in which he maintained that the proclamation provided for the lowest table of fees that had been in effect in the colony

[1] Md. "Gazette", February 4, 1773.

and that it was therefore a guarantee against extortionate charges. Moreover, if it were illegal, it should be submitted to the courts for judgment.

Carrol rejected the idea of the courts deciding such a case, as the judges were interested parties. He added that the proclamation was contrary to the spirit of the Maryland constitution and that if the courts pronounced it legal, it would be a violation of the Lower House's recognized rights to have a share in the imposition of taxes. He closed in stating that "One would imagine that a compromise, and a mutual departure from such points respectively contended for, would have been the most eligible way of ending the dispute; if a compromise was not to be effected, the matter had best been left undecided; time and necessity would have softened dissension and have reconciled jarring opinions and clashing interests; and then a regulation by law, of officers' fees, would have followed of course. What was done? The authority of the supreme magistrate interposed, and took the decision of this important question from the other branches of the legislature to itself; in a land of freedom this arbitrary exertion of prerogative will not, must not, be endured."

Quite apart from any question of logic or law, Carrol represented the popular point of view. The elections of 1773 hinged on this question and the antiproclamation candidates were elected without exception. The people of Annapolis rejoicing to have found a champion who so ably represented their point of view, organized a mock funeral, placed a copy of the proclamation in a coffin, and to the beat of muffled drums, marched to the gallows, hanged, cut down and buried the proclamation. After the ceremony they instructed their newly elected delegates Wm. Paca and Philip Hammond to send a letter to Charles Carrol, assuring him of their approval and appreciation of his efforts. They wrote Carrol that "It is the public voice, Sir, that the establishment of fees by the sole authority of prerogative is an act of usurpation, an act of tyranny, which in a land of freedom, cannot, must not, be endured." A later article in the Gazette signed by Thomas Johnson, Samuel Chase and Wm. Paca asserted that final judgment and ultimate authority were to be found in the freemen of Maryland. This was indeed the unconscious

attitude of the freemen of Maryland, and the collisions with the mother country begun in the last colonial war were within the next few years to crystallize that attitude into a conscious principle.

The controversies depicted up to this point had been of the nature of direct differences between the people of Maryland and the Proprietors and had had little influence upon the home government. But during the period of the Third and Fourth colonial wars, this policy of the Lower House was not merely extended and more aggressively waged, but the effort to coerce the Proprietor into surrendering certain of his privileges by withholding support from the British arms in its warfare against the French and Indians brought the province into direct opposition to the Crown.

The early history of the province with reference to military activity had been singularly quiet. Though militia bills had from time to time been urged upon the Assembly by the 1st Lord Proprietor, the people, occupied with more direct personal concerns and menaced from no quarter felt under no necessity of providing an efficient military organization.

In an effort to provide security against possible attacks, an act was passed in 1661, periodically renewed, and in 1704 made perpetual, providing for a 2 shilling duty on every hogshead of tobacco exported, one half of which was to be employed toward maintaining a constant magazine with arms and ammunition for the defense of the province and defraying other necessary charges of government. But the failure of the Lord Proprietor to use this income for military purposes offered the pretext to the Lower House for asserting the invalitity of the law three quarters of a century later.

Likewise, an act was passed in 1671 providing for the collection of an ostensible fort duty from all vessels, English and foreign, trading with Maryland, to the amount of one half a pound of powder and three pounds of shot per ton burden, or the equivalent. Fourteen pence were fixed as the equivalent, and this amount was collected for over a century by the Proprietor and kept by him for his personal account instead of for purposes of fortification.

Unbroken peace and freedom from attack by the Indians and absence of military raids after the Claiborne episodes, had lulled the people of the province into a sense of complete security. As a consequence military questions had taken little of the attention of the Assembly, and not until the Third Colonial War were the people compelled to face such questions seriously.

At the beginning of this war the Assembly passed an act appropriating £ 2562 for carrying on the war against the French and Indians, and later raised three companies of soldiers, which were sent to Albany to cooperate in the northern campaign. But none of the fighting was in the vicinity of the province and the Lower House therefore saw no valid reason for burdening the province with expense for a far-off military campaign. The idea of fighting for the greater security and extension of the kingdom had no weight in the colony. As a consequence, when Gov. Ogle placed before the Assembly further requisitions for supporting the Maryland forces, although they were to be paid only until Parliament could appropriate money to cover the entire cost, the Lower House replied that it had raised, provisioned and transported the troops and could do no more.

Meanwhile the fortification of strategic points along the St. Lawrence, Ohio and Mississippi Rivers by the French was proceeding apace. But the Maryland governor could take no steps to check this activity. The lack of a standing military force with established laws for its maintenance left him powerless.

In 1753 several traders of the Ohio Trading Company were seized and held by the French and two of the company's trading posts were destroyed. Gov. Dinwiddie of Virginia sent Col. Washington to the French garrison with instructions to require the evacuation of Virginia's territory. England and France were not at war and the attack could therefore not be justified.

When the home government was informed, the Earl of Holdernesse, Secretary of State, urged the governors of the colonies to resist the encroachments of the French. In following out these instructions Gov. Sharpe appealed to the Maryland Assembly to impose a tax to be devoted to military purposes, but the Lower House refused, stating that "We are sufficiently apprehensive of the great danger of suffering a foreign power to encroach upon

any part of his Majesty's Dominions, and we are resolutely determined to repel any hostile invasion of the province by any foreign power . . . But as there does not appear at present to be any pressing occasion for imposing a tax upon the people for these purposes, we hope our unwillingness to do it at this time will be ascribed to the real motives of our conduct, a prudent care and regard to the interests of our constituents than any disinclination to the service recommended."[1]

Washington returned to Virginia in the early part of 1754 and reported that the French had built several forts along the Ohio River and further that their instructions from the King of France directed them to advance further and if opposed, to attack. Confident that this intelligence would convince the Assembly that the situation was fraught with danger, Gov. Sharpe asked for assistance and at the same time laid an appeal from the Governor of Virginia before the Lower House. But the latter unanimously resolved that "We are fully convinced that our own security is connected with the safety of our neighbours, and that in case of an attack we ought mutually to assist and support each other. But as it does not appear to us that an invasion or hostile attempt has been made against this or any other of his Majesty's colonies, we do not think it necessary to make any provision for an armed force, which must inevitably load us with expense."[2]

In the same message Gov. Sharpe requested an appropriation of money for a gift to the Indian Tribes of the Six Nations, necessary for the continuance of the British alliance. The Lower House complied by appropriating £ 300 for this purpose and £ 200 for defraying the expenses of the commission to be charged with this mission, the money to be collected from revenue arising from licenses of ordinary inn-keepers, hawkers and peddlers. The Upper House amended the bill so that license money from inn-keepers alone should be mortgaged to the total amount, reserving the other license money to the Lord Proprietor but the Lower House declined to accept this amendment and

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[1] Lower House Journal, November 16, 1753.
[2] Lower House Journal, February 29, 1754.

the bill was lost. Meanwhile the French and Indians were growing more open in their hostility.

In May, Gov. Sharpe again convened the Assembly and in his opening address sought to bring home to the Assembly the necessity of contributing and assisting in the campaign to check French encroachment. The Lower House thereupon introduced a bill for raising funds, but if it were really interested in assisting, the bills recommended gave little evidence of it. They seemed rather to be an effort to exploit the situation in extending their own authority at the expense of the Proprietor's.

The bill introduced at this session provided for 5 shillings tax on each wheel of a coach, chair, chaise or chariot, increased duty on convicts, indented servants and negro slaves imported, and the diversion of the £ 3 hawkers' and peddlers' license to this use. In addition every lucrative office was to be taxed. But the Upper House, composed of the office holders of the province, objected to the clause imposing taxes upon its members, and likewise protested against the use of the Proprietor's license money for public purposes. It therefore rejected the bill. A conference between the two Houses failed to result in a settlement. But before the end of the session £ 500 in currency was appropriated for a present to the Tribes of the Six Nations and £ 150 for meeting the expenses of the commission charged with this matter.

Virginia thus saw that no aid was to be expected from Maryland and Washington accordingly set out with three hundred Virginia troops for the invaded territory. But an attack by a superior force of French and Indians compelled him to retreat after heavy losses. When this news reached Maryland and the further news that the French were building Fort Duquesne, at the confluence of the Allegheney and Monogahela Rivers, a strategic position menacing the frontier settlements of Virginia and Maryland, Gov. Sharpe hurriedly convened the Maryland Assembly and in his opening address on July 17th said:

"The designs of the French must now be evident to every one. They have openly and in violation of all treaties invaded his Majesty's territories and committed the most violent acts of hostility by attacking and entirely defeating the Virginia troops

under Col. Washington." He then urged the necessity of appropriating money to be used for defence.

The same day the Lower House voted to raise £ 6000 which were to be collected in the same manner as the bill in the previous session had provided, with the exception that offices were not to be taxed but instead a duty of 2 shillings per gallon on Madeira wine was to be imposed. Although this bill contained the clause relative to hawkers' and peddler's licenses, the Governor and Upper House considered the need so pressing as to justify its acceptance. The governor then enlisted two companies and sent them against the French.

In December 1754 the fourth session of Assembly of the year was called and Gov. Sharpe stated that the recent appropriation was exhausted and urged appropriation of additional funds. The Lower House promptly passed a bill for raising £ 7000 by continuing the same taxes, but the Lord Proprietor had meanwhile instructed the governor to assent to no bills applying his license money to public uses, and the bill was therefore lost.

In 1755 Gen. Braddock with a thousand troops of the British regular army arrived in America to conduct operations against the French. On his arrival he held a conference at Alexandria, Va., at which it was recommended that Maryland furnish £ 4000 to the campaign for expelling the French. The Lower House voted to raise £ 5000 provided that the license money amounting to £ 645 annually be used for that purpose. But the Upper House and the Governor obedient to their instructions would not agree to such a bill.

Gov. Sharpe thus found himself bound hand and foot. During this year, after the Lower House had refused to appropriate the funds for keeping three hundred men on the western frontier, he sought to order the few companies of militia then under arms to march to the frontier but the Lower House protested. A reply from the governor maintaining his right to such action elicited the following protest from the Lower House. "We are really at a loss to conceive what could induce your Excellency to be of the opinion that you had a power under that law to march the militia of this Province whenever and wheresoever you pleased, and that in order to prevent as well as to repel an in-

vasion. But surely there are no words in that law that can give you that authority, nor can anything be farther from the intent and design of it; for such an authority would put it in the power of the Governor of this Province, whenever he found himself opposed in any views or designs that he might have tending to destroy liberties of the people, to compel the whole militia of the Province at any time when he might suggest danger to march to any part of the Province he pleased, and keep them there until the Representatives had complied with all his demands, let them be never so extravagant or injurious to the people. Such a power we conceive is not given nor could ever have been intended to have been given by any men in their senses . . . We are apprehensive unprejudiced persons may infer that those who advised your Excellency to take that measure intended under the specious pretence of affording present protection to a few, by degrees to introduce an arbitrary power, the exercise of which must in the end inevitably enslave the whole."[1]

Meanwhile Braddock had embarked on a campaign against Fort Duquesne. On July 3, 1755, he was ambuscaded by a body of French and Indians and his army practically annihilated, 800 being killed and Braddock himself so severely wounded that he died a few days later. The citizens of Frederick County were fleeing from the frontiers, Dunbar with the remnant of the army was retiring toward Philadelphia, thus leaving the frontier defenceless. But, fortunately for the settlers the Indians had disbanded as was their custom after a successful attack and the French garrison of Fort Duquesne had retired to the north to parry possible attacks against Forts Niagara and Grown Point.

A council of war of the English leaders was then held at New York, where a plan of operations and the quota of supplies to be furnished by each province were decided upon. Gov. Sharpe reconvened the Assembly February 23, 1756 and informed it of what was desired.

The Lower House immediately voted to raise £ 40,000 for various military purposes. The sources of this money were to be an excise and import duty on wine, rum, brandy and spirits, an

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[1] Lower House Journal, April 15, 1758.

import duty on horses, pitch, turpentine and tar, an additional duty on convicts and negro slaves, a tax on billiard tables, bachelors and law suits, a tax of 1 shilling per hundred acres of land, if owned by a Protestant, and double if owned by a Roman Catholic, taxes upon the Proprietor's manors and continued use of license money for this fund. Two bills framed upon this basis were rejected by the Upper House. When a third bill was before the Lower House, the Upper House requested a conference at which it was agreed that the clause concerning convicts should be omitted, certain modifications regarding taxes upon the Proprietor's manors were to be made, and the commissioners who were to be enstrusted with the expenditure of the money and whom the Lower House wished to have the exclusive right of appointing, were to be appointed jointly. The bill was then accepted despite certain evident unfortunate features. But this proved to be the last supply bill.

Nominally France and England had been at peace all this time but war was formally declared July 18, 1756.

During 1757 efforts were again made to secure funds. The appropriation of the year before was nearly exhausted. The Lower House passed a bill for defending the frontier but freedom of action of the officers commanding the three hundred troops provided for, was so restricted that Gov. Sharpe, after consultation with Gen. Loudon, vetoed it on the grounds that it was an undesirable precedent to permit a colonial assembly to limit the operations of his Majesty's officers.

In 1758 Gen. Forbes set out on a campaign to reduce Fort Duquesne. Maryland was requested to contribute to this campaign but the Lower House continued its old policy, passing a bill for raising £ 45,000 largely on the same lines as the preceding one for £ 40,000. But the Upper House rejected it, as it provided that the Lower House should have exclusive control over the appointment of the commissioners entrusted with expenditure of the money, that a double tax be imposed on Roman Catholics, and that a tax on the Proprietors quit-rents and his cultivated and uncultivated lands be imposed. It was indeed difficult to conceive how the Lower House could be so unreasonably grasping as to seek to tax the Proprietor's lands and quit-rents. This would

have meant the annihilation of the last vestige of his power. But the Lower House undoubtedly inserted these clauses with no expectation of their being accepted but to insure the rejection of the bills and thus free the people from contributing to the military campaigns of the mother country.

Gen. Forbes, learning from a deserter that Fort Duquesne was but scantily garrisoned, hastened his march and captured it. This success heightened the people's indifference toward military affairs and in spite of repeated urgings the Lower House failed to pass another suitable supply bill. In all nine were rejected, five in the space of eighteen months.

But as the main theater of war between England and France had been in Europe the military campaigns in the colonies were not of decisive importance. The treaty of Paris of February 10, 1763 saw the annihilation of French power in Canada and North America east of the Mississippi River and with it a change in England's policy toward her colonies.

CHAPTER VI.

THE PEOPLE OF MARYLAND vs. THE HOME GOVERNMENT.

Maryland's exaggerated jealousy of her rights during the colonial wars had exasperated the home government to the extreme. During this period England had been too preoccupied with the more pressing questions of warfare with France to be able to give colonial questions the attention she would have liked. But with the treaty of Paris in 1763 which saw the annihilation of French power in Canada and North America east of the Mississippi River, England was again free and decided to bring her colonies more definitely under her control. As a part of this policy it was felt that they should bear part of the large war debt incurred in fighting the French.

Financial and commercial impositions upon Maryland were not without precedent, although the charter had guaranteed freedom of trade and freedom from taxation in the province's relation to England. But the Navigation Act of 1662 imposing an export duty of a penny a pound on tobacco shipped to other than British ports and later Navigation Acts restricting Maryland tobacco planters to British markets and British ships, met with no concerted opposition. During the period of royal government these acts were more effectively carried out than before and after 1715, though the governors were again appointed by the restored Proprietors, such appointments were always subject to confirmation by the crown, which instructed all governors in detail as to the execution of the Acts of Trade and exacted compliance under bond and oath. In 1731 the Lower House was somewhat concerned over a parliamentary project to restrict manufacturing enterprise in the colonies.

But in general, the inconveniences of royal interference were overshadowed by more immediate and more acute differences between the proprietors and the Lower House of the Assembly. The people of the colony undoubtedly felt a definite affection for the mother country. It was the cradle of their institutions, English law seemed to them the most liberal and beneficent, especially as they were removed from the contemporaneous religious persecutions and political upheavals there, and consequently saw only the great outstanding features of the British constitution. Further, England was their chief market and therefore the source of their income. But the end of the fourth colonial war brought with it elements which were the beginning of estrangement.

The members of the popular House of Assembly had undergone a long apprenticeship in defending and extending their rights against the Proprietors and thus had a lively appreciation of the value of comparative independence, the making of their own laws and the disposal of their own money. Thus when England embarked upon her policy of restricting their freedom and of bending them to her will, Maryland exerted the full force of her resistance against the mother country.

But England was not conscious of the intensity of this spirit. On the contrary, the Lower House had on a recent occasion at least seemed to give encouragement to a different belief. A letter of disapprobation from the Earl of Egremont, Secretary of State at the time, called forth by the Lower House's failure to provide sufficient funds for carrying on the fourth colonial war, was answered by a letter to the governor as follows: "As to the severe reprehension contained in the Earl of Egremont's letter, which you have been pleased to lay before us, ... we must conclude that our most Gracious Sovereign and his Ministers have not been fully and truly informed of the repeated generous offers of the people heretofore made by their Representatives to raise very large supplies for his Majesty's service by bills passed for those purposes and constantly refused by the Upper House."[1] But notwithstanding such expressions of willingness to place their resources at the disposal of the home government,

[1] Lower House Journal, March 19, 1762.

the Assembly had no intention of surrendering the least part of its asserted claim to the right of appropriating its own money for use in such ways and for such purposes as it saw fit.

An Act of Parliament of 1764 imposing port duties on Maryland contained in its preamble a foreshadowing of the new policy. It was asserted that it was just and necessary that a revenue be raised in America.

Shortly after, it was reported that the British minister Grenville had recommended to Parliament the passage of a stamp act for raising revenue in the colonies. This immediately became a topic of excited conversation and protest, but the latter went unheeded and on March 22, 1765 such an act was passed by Parliament. It provided that stamps varying from 3 pence to £ 10 be used on all commercial and legal documents in the colonies, as well as on pamphlets, newspapers and publications. It further provided for trial without jury in cases of infraction of this law. The Maryland Assembly was not in session and the prevalence of small pox justified Gov. Sharpe in not convening it. But the measure was warmly opposed in articles appearing in the "Maryland Gazette" and thoroughly disapproved of throughout the colony.

Opposition was not confined to passive protest but found expression in acts of violence. Mr. Hood, a Marylander, had been appointed stamp distributor for the province while on a visit to England. On his arrival in Annapolis he was personally affronted, and his effigy was whipped, pilloried, hanged and burned at various places in the province. On September 2, 1765, a mob of three to four hundred persons pulled down a house he had built for receiving the stamps. After these incidents, Gov. Sharpe wrote Lord Halifax, that nothing save military force would suffice to protect Hood and that the temper of the people was such that he was convinced the stamps would be burned, if landed.

A number of the chief men of the province organized an association known as the "Sons of Liberty" to resist the execution of the Stamp Act. These men seized Hood, carried him before a magistrate, and compelled him to take oath to resign and to give no aid, direct or indirect, in executing the Stamp Act. When the stamps arrived later on the sloop-of-war "Hawke"

there was no authority to receive them and they could only be landed secretly and re-shipped to England.

In the fall of 1765 a number of the leading lawyers of the province petitioned Gov. Sharpe to convene the Assembly. This was desired in order that delegates might be chosen for the Stamp Act Congress which was to be held in New York. The governor complied with this petition fearing that a refusal would cause violent protest. The Assembly met on September 23, 1765 and immediately took up the question of the Stamp Act. A letter from the Massachusetts legislature recommending consideration of the state of affairs and the transmission of a memorial to the home government was unanimously approved by both Houses. Further, William Murdock, Edward Tilgman, and Thomas Ringgold were appointed delegates to the New York Stamp Act Congress and given instructions to lodge a joint protest with representatives of the other colonies against the infringement of the time honored right of trial by jury and to petition for the removal of the stamp taxes. A few days later the Lower House adopted the following series of resolution expressive of its attitude :

I. Resolved, unanimously, That the first adventurers and settlers of this province of Maryland brought with them and transmitted to their posterity, and all other his Majesty's subjects, since inhabiting in this province, all the liberties, privileges, franchises and immunities that at any time have been held, enjoyed, and possessed, by the people of Great Britain.

II. Resolved, unanimously, That it was granted by Magna Charta, and other the good laws and statutes of England, and confirmed by the Petition and Bill of Rights, that the subject should not be compelled to contribute to any tax, talliage, aid, or other like charges not set by common consent of Parliament.

III. Resolved, unanimously, That by a royal charter granted by his Majesty, King Charles 1 in the eighth year of his reign and in the year of our Lord one thousand six hundred and thirty two, to Cecilius, then Lord Baltimore, it was, for the encouragement of the people to transport themselves and families into this province among other things, covenanted and granted by his said Majesty for himself, his heirs, and successors, as follow-

eth; "And further, our pleasure is, and by these presents for us, our heirs and successors, we do covenant and grant, to and with the said now Lord Baltimore, his heirs and assigns, that we, our heirs and successors, shall, at no time hereafter, set or make, or cause to be set, any imposition, custom or other taxation, rate or contribution whatsoever, in or upon the dwellers and inhabitants of the aforesaid province, for their lands, tenements, goods or chattels, within the said province, or to be laden and unladen with in any of the ports of harbors of the said province: And our pleasure is, and for us, our heirs and successors, we charge and command, that this our declaration shall be hence forward, from time to time, received and allowed in all our courts, and before all the judges of us, our heirs and successors, for a sufficient and lawful discharge, payment and acquittance: commanding all and singular our officers and ministers of us, our heirs and successors, and enjoining them upon pain of our high displeasure, that they do not presume, at any time, to attempt anything to the contrary of the premises, or that they do in any sort withstand the same; but that they be at all times aiding and assisting, as is fitting, unto the said now Lord Baltimore, and his heirs, and to the inhabitants and merchants of Maryland aforesaid, their servants, ministers, factors, and assigns, in the full use and fruition of the benefit of this our charter."

IV. Resolved, That it is the unanimous opinion of this house that the said charter is declaratory of the constitutional rights and privileges of the freemen of this province.

V. Resolved, unanimously, That trials by juries are the grand bulwark of liberty, the undoubted birthright of every Englishman, and consequently of every British subject in America; and that the erecting of other jurisdictions for the trial of matters of fact is unconstitutional, and renders the subject insecure in his liberty and property.

VI. Resolved, That it is the unanimous opinion of this house that it cannot, with any truth or propriety, be said that the freemen of this province of Maryland are represented in the British Parliament.

VII. Resolved, unanimously, That his Majesty's liege people of this ancient province have always enjoyed the right of being

governed by laws, to which they themselves have consented, in the articles of taxes and internal polity; and that the same hath never been forfeited, or any way yielded up, but hath been constantly recognized by the king and people of Great Britain.

VIII. Resolved, That it is the unanimous opinion of this house that the representative of the freemen of this province, in their legislative capacity, together with the other parts of the legislature, have the sole right to lay taxes and impositions on the inhabitants of Maryland, under color of any other authority, is unconstitutional, and a direct violation of the rights of the freemen of this province."[1]

This was indeed a clear exposition of the Maryland viewpoint and should have afforded the home country clear insight into the colonial mind.

After adopting these resolutions the Lower House declined to entertain further business and was thereupon prorogued by the governor.

November 1st arrived and there were neither stamps nor distributor. Without stamps business could not legally be carried on. But the court of Frederick County decided to continue as in the past, using no stamps. Six of the county courts recommenced business, before the news of the Stamp Act's repeal had arrived in April 1766, and the "Maryland Gazette" which had suspended publication in accordance with the new law in October 1765 reappeared January 30, 1766 and attributed its interruption to an error in judgment. Business had largely continued without stamps, but the news of repeal was hailed with boisterous rejoicing. Guns were fired, bonfires lighted, patriotic addresses given and the heart of Maryland seemed to beat in closer harmony with that of England than ever before.

But the following year Parliament passed the Townshend Acts, which imposed duties on tea, glass, paper and painters colors. These duties were to be collected by a Board of Customs, the members of which were to be armed with "writs of assistance." The latter permitted customs officers to enter private houses unannounced in search of smuggled goods. They speci-

[1] Lower House Journal, September 28, 1765.

fied neither time, place, nor goods, but were general and undefined. Massachusetts immediately sent out a circular letter to the other colonies urging common protest against these acts.

To counteract this letter Lord Hilsborough, Secretary of State, instructed Gov. Sharpe to use his influence with the Maryland Assembly to minimize its effect. The latter then urged the Assembly to treat the Massachusetts letter "with the contempt it deserved" but the Lower House replied that "we cannot be prevailed on to take no notice of, or to treat with the least degree of contempt, a letter so expressive of duty and loyalty to the Sovereign, and so replete with just principles of liberty; and your Excellency may depend that whenever we apprehend the rights of the people to be affected, we shall not fail boldly to assert, and steadily to endeavor to maintain them."[1] They then addressed a petition to the king declaring that "The people of this Province, Royal Sir, are not in any manner, nor can they ever possibly be, effectually represented in the British Parliament. While, therefore, your Majesty's Commons of Great Britain continue to give and grant the property of the people in America, your faithful subjects of this and every other colony must be deprived of that most invaluable privilege, the power of granting their own money, and of every opportunity of manifesting by cheerful aids, their attachment to their king, and zeal for his service; they must be cut off from all intercourse with their sovereign, and expect not to hear of the royal approbation; they must submit to the power of the Commons of Great Britain; and precluded the blessings, shall scarcely retain the name of freedom."

The Assembly was immediately prorogued for its failure to heed the Secretary of State's letter and from that time on differences between the mother country and Maryland were handled independently of the Assembly.

In order to make the force of their will felt, the people entered into non-importation agreements directed against England. None of the taxed articles were to be imported nor were non-importers to deal with anyone who handled such goods. The associators watched for the arrival of forbidden goods and saw that they were

[1] Lower House Journal, June 21st, 1768.

reshipped to England. On one occasion, a ship with its entire cargo was sent back in spite of the protests of the recently arrived governor, Robert Eden, who came to the colony in the spring of 1769. In addition the people were to make themselves as economically independent of the mother country as possible. This policy was efficacious. British merchants suffered from non-importation to such an extent that within a year exports fell from £ 2,400,000 to £ 1,600,000 [1] and British merchants then brought their influence to bear to have the duties removed. Parliament likewise found that the royal revenues were decreasing rather than increasing, and therefore in April 1770 decided to repeal the Townshend acts, on the plea that duties levied on articles of British manufacture were "contrary to the true principles of commerce."

But a 3 d duty was left on tea to show that England had not surrendered the right of taxing the colonies, in principle. In addition the advisability of raising a revenue in the colonies was reaffirmed. But no effort was immediately made to compel the acceptance of such a policy. But with the renewed troubles in the North and the quartering of British troops in Boston three years later, Massachusetts urged the other colonies to constitute committees of correspondence to communicate with one another with the idea of deciding upon measures that would protect American interests. Maryland immediately appointed such a committee. Following upon the destruction of tea in Boston harbor, the British "Intolerable Acts" providing for the closing of Boston harbor, the forfeiture of the Massachusetts charter, and the assertion of the right of quartering troops in any colony, Maryland was aglow with indignation. For was it not possible that similar measures might at some future time be used against her? The recognition of this fact made Maryland feel that the case was indeed her own. The people immediately despatched ship loads of provisions to Boston and expressed their sympathy for the people of Massachusetts in word and deed.

The Maryland Assembly was not in session and Gov. Eden prevented its meeting by continued prorogations. A town meeting

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[1] S. E. Forman, American History, page 165.

of Baltimore of May 31, 1774 therefore recommended that a general convention of deputies from all counties in Maryland be held. -This was agreed upon and on June 2, 1774 ninety two delegates from all counties in the province met at Annapolis. They urged common action against these acts, and declared them violations of the human rights of the colonies as well as of their constitutional rights. Matthew Tilghman, Thomas Johnson, Jr., Robert Goldsborough, William Paca and Samuel Chase were appointed Maryland's representatives to the First Continental Congress, and empowered to call a meeting of the Maryland Convention upon their return from the general congress, when measures adopted there should be laid before the Convention. The Convention thereupon adjourned.

In the month of October an incident occured illustrating Maryland's attitude toward Parliamentary taxation. The brig "Peggy Stewart" arrived in Annapolis on October 15th with an assorted cargo, among which were seventeen packages of tea for James and Joseph Williams, merchants in Annapolis. The brig was the property of Anthony Stewart, who paid duty on the tea in order to be able to land the rest of the cargo. When this became known the people were indignant. Stewart was summoned before the convention and requested to explain. The offence was aggravated by the fact that he was one of the signers of the non-importation agreement. He expressed his regret, stating that it had been necessary to land the tea in order to land the rest of the cargo, and offered to atone for his indiscretion by burning the tea publicly. This was considered sufficient by the majority of the Convention but the people were in no mood for half measures. They favored burning the brig. Stewart seeing their mood, offered to fire the brig himself. It was then run aground near Windmill Point and set afire, the crowd watching it burn to the water's edge. Opposition could not well have been more open, more flagrant than this.

Early in November 1774 the Maryland delegates who had attended the First Continental Congress at Philadelphia issued a call for a meeting of the county deputies the 26th of November. At this meeting a committees of observation to insure the execution of measures recommended by the Convention were appointed,

likewise smaller committees of correspondence. The time was too short to permit all the delegates to appear and the meeting was therefore adjourned for further business until December 8th. At this meeting eighty five delegates were present, five elected from each county by the regularly qualified voters of the province. They recommended the forming of an efficient militia; and if the acts of Parliament directed against Massachusetts or if taxation upon any colony were imposed by force, Maryland should lend active aid to any colony thus attacked. In addition £ 10 000 were appropriated for the use of the Continental Congress, and deputies to the next Continental Congress were appointed and empowered to agree to all measures which the latter considered necessary for redressing American grievances. A Committee of Observation was also appointed to insure the execution of all measures decided upon and to set the date of the Convention's next meeting.

The latter was again called to meet April 24, 1775 and aside from voting to raise £ 600 by subscription and adopting resolutions instructing its delegates to the Continental Congress to endeavor to secure recognition of colonial rights by such means as would not preclude an ultimate reconciliation with the mother country, voted to adjourn.

But the skirmishes of Lexington and Concord in April 1775 and the battle of Bunker Hill rendered reconciliation problematical. On July 26, 1775 the Maryland convention again assembled and expressed itself as follows:

"The long premeditated, and now avowed, design of the British government, to raise a revenue from the property of the colonists without their consent, on the gift, grant, and disposition of the Commons of Great Britain; and the arbitrary and vindictive statutes passed under color of subduing a riot, to subdue by military force and by famine the Massachusetts Bay; the unlimited power assumed by Parliament to alter the charter of that Province and the constitutions of all the colonies, thereby destroying the essential securities of the lives, liberties, and properties of the colonists; the commencement of hostilities by the ministerial forces; and the cruel prosecution of the war against the people of Massachusetts Bay, followed by Gen. Gage's proclamation,

declaring almost the whole of the inhabitants of the united colonies, by name or description, rebels and traitors, are sufficient causes to arm a free people in defence of their liberty, and justify resistance, no longer dictated by prudence merely, but by necessity; and leave no other alternative but base submission or manly opposition to uncontrollable tyranny. The Congress chose the latter; and for the express purpose of securing and defending the united colonies, and preserving them in safety against all attempts to carry the abovementioned acts into execution by force of arms, resolved that the said colonies be immediately put into a state of defence, and now supports, at the joint expense, an army to restrain the further violence, and repel the future attacks of a disappointed and exasperated enemy.

"We therefore, inhabitants of the Province of Maryland, firmly persuaded that it is necessary and justifiable to repel force by force, do approve of the opposition by arms to the British troops employed to enforce obedience to the late acts and statutes of the British Parliament for raising a revenue in America, and altering and changing the charter and constitution of the Massachusetts Bay, and for destroying the essential securities for the lives, liberties, and properties of the subjects in the united colonies. And we do unite and associate as one band, and firmly and solemnly engage and pledge ourselves to each other and to America, that we will, to the utmost of our power, promote and support the present opposition, carrying on as well by arms as by the continental association restraining our commerce.

"And as in these times of public danger, and until a reconciliation with Great Britain on constitutional principles is effected (an event we ardently wish may soon take place), the energy of government may be greatly impaired, so that even zeal unrestrained may be productive of anarchy and confusion, we do in like manner unite, associate, and solemnly engage in the maintenance of good order and the public peace, to support the civil power in the due execution of the laws, so far as may be consistent with the plan of opposition; and to defend with our utmost power all persons from every species of outrage to themselves or their property, and to prevent any punishment from being inflicted on any offenders other than such as shall be adjudged by the

civil magistrate, the Continental Congress, our Convention, Council of Safety, or Committees of Observation."[1] This was submitted to the freemen of the province and received their approval. Thereafter, five delegates from each county were to be elected by the duly qualified voters, who had voted for deputies to the Assembly. They were to constitute the supreme authority of the province. The executive power of the Convention was to be embodied in a Council of Safety of sixteen members and a Committee of Observation in the counties.

But the sentiment of the province, though willing to insist on its rights even to military opposition still hoped for reconciliation, and therefore forbade its delegates to the Continental Congress which met January 1776 to agree to any declaration of independence or to conclude any foreign alliance. The sole object of its course of action was to secure protection of the province's rights.

But military operations moved rapidly forward. Maryland not only furnished her quota to the Continental army but sent two companies to Boston soon after the battle of Bunker Hill. She also fitted out armed ships and cruisers to protect her plantations along the Chesapeake Bay, which had been attacked at various times by British cruisers.

The continued military efforts on the part of England led the majority of the members of the Continental Congress to the conclusion that independence was the sole solution of the controversy. But the Maryland delegates were bound by the instructions of the Maryland Convention. They therefore reported that the trend of opinion was toward independence and asked for further instructions. The question was then submitted to popular vote in Maryland and the freemen voted to withdraw the former instructions and to permit the Maryland deputies to join with those of other colonies in preparing a declaration of independence. This authority was communicated to them June 23, 1776 and the Maryland delegates collaborated with those of the remaining twelve colonies in the Declaration of Independence of July 4, 1776.

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[1] W. H. Browne, The History of a Palatinate, pages 271—273.

But the Maryland Convention felt that it was its duty to likewise declare its independence in its capacity as a sovereign state and accordingly drew up the following declaration.

A DECLARATION OF THE DELEGATES OF MARYLAND.

"To be exempted from the Parliamentary taxation, and to regulate their internal government and polity, the people of the colony have ever considered as their inherent and unalienable right; without the former, they can have no property; without the latter, no security for their lives or liberties.

"The Parliament of Great Britian has of late claimed an uncontrollable right of binding these colonies in all cases whatsoever; to enforce an unconditional submission to this claim the legislative and executive powers of that State have invariably pursued for these ten years past a steadier system of oppression, by passing many impolitic, severe, and cruel acts for raising a revenue from the colonists: by depriving them in many cases of the trial by jury; by altering the chartered constitution of our colony and the entire stoppage of the trade of its capital; by cutting off all intercourse between the colonies; by restraining them from fishing on their own coasts; by extending the limits of, and erecting an arbitrary government in the Province of Quebec, by confiscating the property of the colonists taken on the seas, and compelling the crews of their vessels, under the pain of death, to act against their native country and dearest friends; by declaring all seizures, detention, or destruction of the persons or property of the colonists, to be legal and just.

"A war unjustly commenced hath been prosecuted against the united colonies with cruelty, outrageous violence, and perfidy; slaves, savages, and foreign mercenaries have been meanly hired to rob a people of their property, liberties, and lives; a poeple guilty of no other crime than deeming the last of no estimation without the secure enjoyment of the former; their humble and dutiful petitions for peace, liberty, and safety have been rejected with scorn; secure of, and relying on foreign aid, not on his national forces, the unrelenting monarch of Britain hath at length avowed, by his answer to the city of London, his deter-

mined and inexorable resolution of reducing these colonies to abject slavery.

"Compelled by dire necessity, either to surrender our properties, liberties, and lives into the hands of a British King and Parliament, or to use such means as will most probably secure to us and our posterity those invaluable blessings.

"We, The Delegates of Maryland, in Convention assembled do declare that the King of Great Britain has violated his compact with this people and they owe no allegiance to him. We have therefore thought it just and necessary to empower our deputies in Congress to join with a majority of the united colonies in declaring them free and independent States, in framing such further confederation between them, in making foreign alliances, and in adopting such other measures as shall be judged necessary for the preservation of their liberties; provided the sole and exclusive rights of regulating the internal polity and government of this colony be reserved for the people thereof. We have also thought proper to call a new Convention, for the purpose of establishing a government in this colony. No ambitious views, no desire of independence, induced the people of Maryland to form an union with the other colonies. To procure an exemption from parliamentary taxation, and to continue to the legislatures of these colonies the sole and exclusive right of regulating their internal polity, was our original and only motive. To maintain inviolate our liberties and to transmit them unimpaired to posterity, was our duty and first wish; our next, to continue connected with, and dependent on, Great Britain. For the truth of these assertions, we appeal to that Almighty Being who is emphatically styled the Searcher of hearts, and from whose omniscience nothing is concealed. Relying on His divine protection and affiance, and trusting to the justice of our cause, we exhort and conjure every virtuous citizen to join cordially in the defence of our common rights, and in maintenance of the freedom of this and her sister colonies."[1]

For seven years the freemen of Maryland fought side by side with those of the remaining colonies to insure the independ-

[1] W. H. Browne, History of a Palatinate, pages 281—283.

ence they claimed. The Convention drew up a bill of rights and constitution embodying the points it had striven for during its whole history, then adjourned leaving the control of affairs in the hands of the Council of Safety. The government provided for by the new constitution began its functions March 21, 1777, when the Council of Safety surrendered the records and papers of the colony to the proper authorities. Its mission was then terminated and it passed out of existence.

Gov. Eden, the last of the proprietary governors had prevented the Assembly from sitting from April 1774 until the expiration of the term of election of the delegates. In June 1776 he issued new writs of election, but left the province soon after and the Convention forbade the election. With his departure the last vestige of proprietary authority disappeared. The Proprietor's individual rights were respected until 1780, when exasperated by loyalist conspiracies in the colony and England's seizure of Maryland's funds in the Bank of England, the Maryland government confiscated the property of all English subjects within the colony, with the exception of that of former Gov. Sharpe, who was given the option of returning to Maryland and becoming a citizen or of selling his property to its inhabitants.

The Proprietor's quit-rents were likewise abolished. Henry Harford, the last Proprietor received an indemnity of £ 10,000 from the state of Maryland and £ 90,000 from the English government as payment of his claims. Except for this concession all other rights originally held by the Proprietor's passed to the newly erected state.

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